

232652

LAW OFFICES OF
LOUIS E. GITOMER, LLC.

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600 BALTIMORE AVENUE, SUITE 301
TOWSON, MARYLAND 21204-4022
(410) 296-2250 • (202) 466-6532
FAX (410) 332-0885

August 6, 2012

Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings
AUG 06 2012
Dep. of
Public Record

Re: **Docket No. AB-55 (Sub-No. 716X), CSX Transportation, Inc.—Abandonment
Exemption—in Niagara Falls, Niagara County, NY**

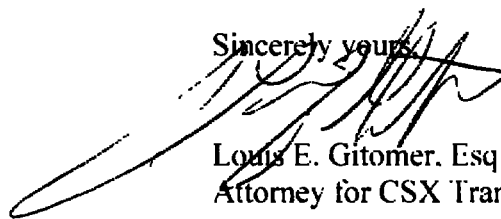
Dear Ms. Brown.

Enclosed are the original and 10 copies of a Verified Notice of Exemption for CSX Transportation, Inc. ("CSXT") to abandon an approximately 0.1-mile rail line on its Northern Region, Albany Division, Niagara Subdivision, between milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1, in Niagara Falls, Niagara County, NY. Also enclosed are a check for the filing fee of \$3,600, and a computer diskette containing the Notice in WORD and pdf format.

Please time and date stamp the additional copy of this letter and Notice and return it in the enclosed prepaid envelope.

Thank you for your assistance. If you have any questions, please contact me.

Sincerely yours,



Louis E. Gitomer, Esq.
Attorney for CSX Transportation, Inc.

Enclosure

232652

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-55 (Sub-No. 716X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN NIAGARA FALLS, NIAGARA COUNTY, NY

VERIFIED NOTICE OF EXEMPTION

FILED

AUG 06 2012

**SURFACE
TRANSPORTATION BOARD**

ENTERED
Office of Proceedings

AUG 06 2012

Part of
Public Record

FEE RECEIVED

AUG 06 2012

**SURFACE
TRANSPORTATION BOARD**

Steven C. Armbrust, Esq.
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202
(904) 359-1229

Louis E. Gitomer, Esq.
Melanie B. Yasbin, Esq.
Law Offices of Louis E. Gitomer, LLC
600 Baltimore Avenue, Suite 301
Towson, MD 21204
(410) 296-2250
Lou@lgrailaw.com

Attorneys for: CSX TRANSPORTATION.
INC.

Dated: August 6, 2012

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-55 (Sub-No. 716X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN NIAGARA FALLS, NIAGARA COUNTY, NY

VERIFIED NOTICE OF EXEMPTION

CSX Transportation, Inc. (“CSXT”) files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 for CSXT to abandon an approximately 0.1-mile rail line on its Northern Region, Albany Division, Niagara Subdivision, between milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1, in Niagara Falls, Niagara County, NY (the “Line”). After receiving abandonment authority, CSXT plans to sell the track and land to Amtrak for its use. Amtrak will then maintain and dispatch the Line.¹ No local rail traffic has moved over the Line during the past two years. Any overhead traffic on the Line can be and has been rerouted.

Based on information in the possession of CSXT, the Line does not contain federally granted rights-of-way. Any documentation in the railroad’s possession will be made available promptly to those requesting it.

1. Proposed consummation date. The proposed consummation date is September 25, 2012.

¹ See *Canadian National Railway Company-Abandonment Exemption-in Niagara County, NY*, STB Docket No. 279 (Sub-No. 6X) (STB served August 3, 2012).

2. Certification required by 49 C.F.R. § 1152.50(b). *See* Exhibit A.
3. Information required by 49 C.F.R. § 1152.22(a)(1) through (4), (7), and (8), and (e)(4).

(a) General.

(1) Exact name of applicant. CSX Transportation, Inc.

(2) Whether applicant is a common carrier by railroad subject to 49 U.S.C.

Subtitle IV, Chapter 105. CSXT is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

(3) Relief sought. CSXT seeks to use the class exemption at 49 C.F.R. § 1152.50 to abandon an approximately 0.1-mile rail line on its Northern Region, Albany Division, Niagara Subdivision, between milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1, in Niagara Falls, Niagara County, NY. There are no stations on the Line.

(4) Map. *See* Exhibit B.

(7) Name, title, and address of representative of applicant to whom correspondence should be sent. Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, (410) 296-2250, Lou@lgrailaw.com.

(8) List of all United States Postal Service ZIP Codes that the line proposed for discontinuance traverses. The Line traverses U.S. Postal ZIP Code 14305.

(e) Rural and community impact.

(4) Statement of whether the properties proposed to be discontinued are appropriate for use for other public purposes, including roads and highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which

would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.

CSXT intends to sell the track and land to Amtrak for its use and Amtrak will then maintain and dispatch the Line.

4. The level of labor protection. The interests of any railroad employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions in *Oregon Short Line R. Co. –Abandonment–Goshen*, 360 I.C.C. 91 (1979).

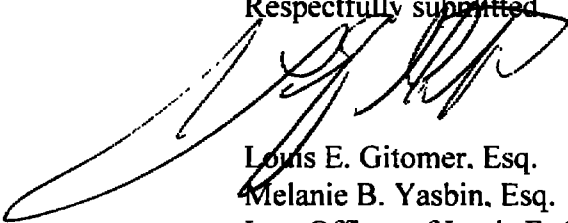
5. Certification. Certificates of compliance with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1) and 1105.11 are attached as Exhibit C.

6. Environmental Report. See Exhibit D.

7. Historic Report. See Exhibit E.

Respectfully submitted

Steven C. Armbrust, Esq.
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202
(904) 359-1229



Louis E. Gitomer, Esq.
Melanie B. Yasbin, Esq.
Law Offices of Louis E. Gitomer
600 Baltimore Avenue, Suite 301
Towson, MD 21204
(410) 296-2250
Lou@lgrailaw.com

Attorneys for: CSX TRANSPORTATION,
INC.

Dated: August 6, 2012

EXHIBIT A-VERIFICATION AND CERTIFICATION

**VERIFICATION AND CERTIFICATION THAT RAIL LINE MEETS
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

STATE OF FLORIDA)
) ss.
COUNTY OF DUVAL)

I, Patrick Carney, state that I am Manager of Cost and Economic Analysis for CSX Transportation, Inc. ("CSXT"); that I am authorized to make this verification; and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated, to the best of my knowledge, information, and belief.

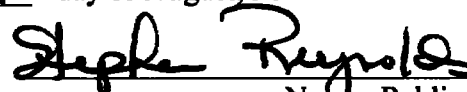
I hereby certify that no local freight traffic has moved over CSXT's approximately 0.1-mile rail line on its Northern Region, Albany Division, Niagara Subdivision, between milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1, in Niagara Falls, Niagara County, NY, for at least two years prior to the date hereof, and that any overhead freight traffic on the line can be rerouted over other lines. Further, no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period. The foregoing certification is made on behalf of CSXT by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information, and belief of the undersigned.



Patrick Carney

SUBSCRIBED AND SWORN TO before me this 1th day of August, 2012.

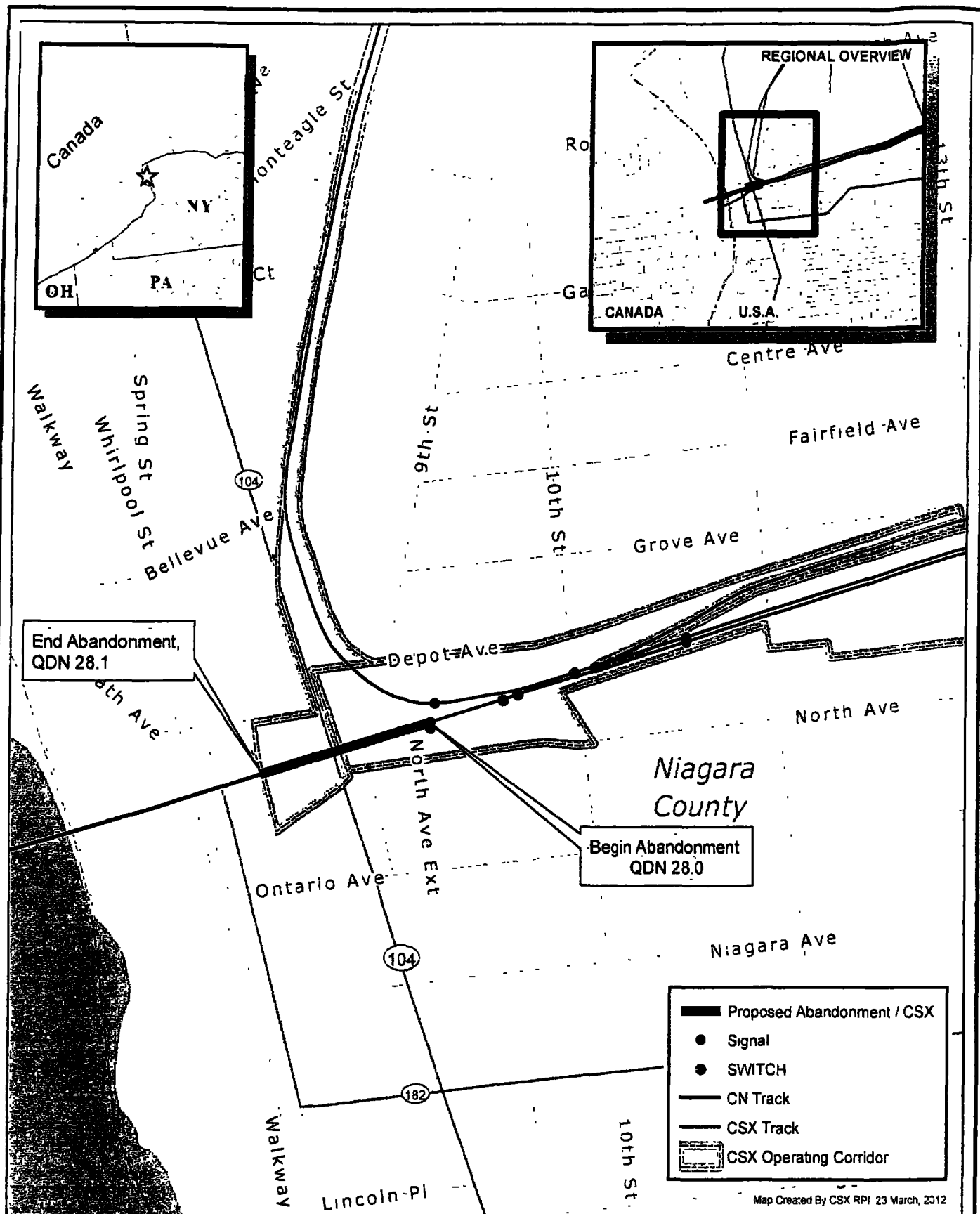
My Commission Expires: 9-11-12



Notary Public



EXHIBIT B-MAP



CSX Transportation, Inc. Proposed Abandonment Niagara International Station

Milepost QDN 28.0 to QDN 28.1
Approx. Station 389.8611 to Station 390.4236
Total Distance of approx. 562 Feet
Niagara Falls, Niagara County, NY
STB Docket Number AB 55 (Sub-No. 716X)

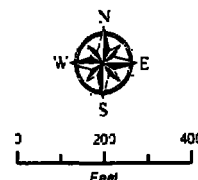


EXHIBIT C-CERTIFICATES OF SERVICE AND PUBLICATION

Pursuant to 49 C.F.R. § 1152.50 (d) (1), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-55 (Sub-No. 716X) was mailed via first class mail on July 27, 2012, to the following parties:

State Public Service Commission

Hon. Jaclyn A. Brillling
Secretary to the Commission
New York State Public Service Commission
Empire State Plaza
Agency Building 3
New York, NY 12223-1350

Military Traffic Management Command

Headquarters
Military Surface Deployment and Distribution Command
Transportation Engineering Agency
ATTN: SDTE-SA (Railroads for National Defense)
1 Soldier Way, Building 1900W
Scott AFB, IL 62225

National Park Service

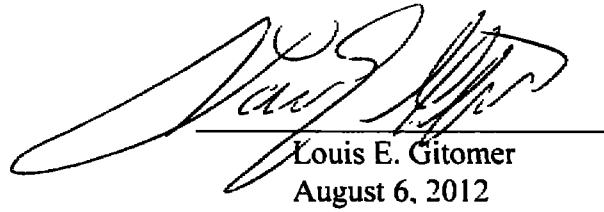
Mr. Rick Potts
Chief, Conservation and Outdoor Recreation Division
Rivers, Trails and Conservation Assistance Program National Park Service
1849 C Street, N.W. (Org Code 2220)
Washington, DC 20240

National Park Service

U.S. Department of Interior
National Park Service
Land Resources Division
1849 C Street, N.W.
Washington, DC 20240

U.S. Department of Agriculture


U.S. Department of Agriculture
Chief of the Forest Service
1400 Independence Avenue, S.W.
Washington, DC 20250-0003



Louis E. Gitomer
August 6, 2012

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-55 (Sub-No. 716X) in the following form was advertised on August 3, 2012 in the Niagara Gazette, a newspaper of general circulation in Niagara County, NY as required by 49 C.F.R. § 1105.7(c) and .12.



Louis E. Gitomer
August 6, 2012

Notice of Intent to Abandon

CSX Transportation, Inc. ("CSXT") gives notice that on or about August 6, 2012, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments permitting the abandonment of an approximately 0.1-mile rail line on its Northern Region, Albany Division, Niagara Subdivision, between milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1, which traverses through United States Postal Service ZIP Code 14305 in Niagara Falls, Niagara County, NY. The proceeding will be docketed as No. AB-55 (Sub-No. 716X).

The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the OEA, Surface Transportation Board, Washington, DC 20423 or by calling that office at (202) 245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, SW, Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative: Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, (410)296-2250, Lou@lgrailaw.com.

EXHIBIT D– ENVIRONMENTAL REPORT

ENVIRONMENTAL REPORT CERTIFICATE OF SERVICE

Pursuant to the requirements of 49 C.F.R. § 1105.7, the undersigned hereby certifies that a copy of the Environmental Report in Docket No. AB-55 (Sub-No. 716X) was mailed via first class mail on July 5, 2012 to the following parties:

New York State Department of Transportation
Main Office
50 Wolf Road
Albany, NY 12232

U.S. Fish & Wildlife Service
Northeast Region Office
300 Westgate Center Drive
Hadley, MA 01035-9589

United States Department of Agriculture
Natural Resources Conservation Service
4487 Lake Avenue
Lockport, NY 14094

Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007-1866

U.S. Army Corps of Engineers
Jacob K. Javits Federal Building
26 Federal Plaza, Room 2109
New York, NY 10278-0090

New York Department of Environmental
Conservation
625 Broadway
Albany, NY 12233

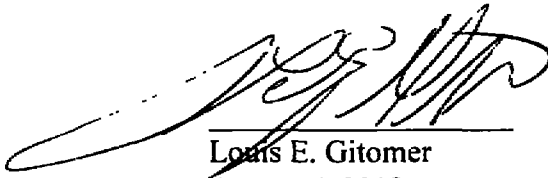
Niagara County
Economic Development Office
Vantage Center, Suite One
6311 Inducon Corporate Drive
Sanborn, NY 14132

City of Niagara Falls
Division of Planning and Development
City Hall
745 Main Street
P.O. Box 69
Niagara Falls, NY 14302

National Park Service
Northeast Regional Office
200 Chestnut Street, Room 322
U.S. Custom House
Philadelphia, PA 19106

National Geodetic Survey
Simon.Monroe@noaa.gov

New York Department of State
Office of Communities and Waterfronts
99 Washington Avenue, Suite 1010
Albany, NY 12231-0001



Louis E. Gitomer
August 6, 2012

ENVIRONMENTAL REPORT

**CSX TRANSPORTATION, INC.
Niagara Falls, Niagara County, New York
Docket AB-55 (Sub-No. 716X)**

The following information is provided in accordance with 49 C.F.R. Section 1105.7:

(1) PROPOSED ACTION AND ALTERNATIVES

Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

CSXT proposes to abandon approximately 0.1 mile of its rail line between from Railroad Milepost QDN 28.0 (or valuation station 389.86) to Railroad Milepost QDN 28.1 (or valuation station 390.42) approximately 562 feet in Niagara Falls, Niagara County, New York.

The above-referenced 0.1-mile line has not generated any originating, terminating or overhead freight traffic in over two (2) years. No new freight rail-oriented business is expected to develop, and the line is no longer required for operating purposes. CSXT currently maintains the line for Amtrak operations. The Canadian National Railway (CN) has filed with the Surface Transportation Board to abandon its line of road to our Milepost marker QDN 28.1 and plans to sell their interest in the track and land to Amtrak. CSXT will arrange for a purchase and sale agreement to Amtrak to include the track and land from QDN 28.0 to QDN 28.1 contingent on STB approval for abandonment. Amtrak will take over the maintenance, construction and dispatch for this line of road west of QDN 28.0.

Abandonment of this line may result in the removal of the rail, crossties, and possibly the upper layer of ballast. CSXT does not intend to disturb any sub grade or sub grade structures. Finally, the operations and maintenance performed by CSXT on this line will cease.

The only alternative would be not to abandon and to pass the opportunity

costs of retaining the line to all other CSXT customers. This would not be a prudent utilization of carrier resources.

A map which delineates the proposed project is attached (See Attachment 1).

Further attached is a distribution list of all parties who have received a copy of this report (See Attachment 2).

(2) TRANSPORTATION SYSTEM

Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

The proposed abandonment will not affect regional or local transportation. There is no freight traffic on this line. There has not been any freight traffic on this line in over 2 years and no freight traffic in the future is expected. The National Railroad Passenger Corporation (Amtrak) operates the daily "Maple Leaf" service on the line of road and will take over the maintenance, construction and dispatch operations of this line segment and passenger rail service will continue.

(3) LAND USE

- (i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.**

Applicant has not received a response to its June 22, 2012 letter to the New York State Department of Transportation, City of Niagara Falls Division of Planning and Development Office, Niagara County Economic Development Office or the National Park Service Northeast Regional Office requesting information regarding this statement (See Attachments 3, 4, 5, and 6).

Based on the fact that the line has not generated any freight traffic in over 2 years, Applicant believes the proposed action is not inconsistent with local land use plans.

- (ii) **Based on consultation with the U. S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.**

Applicant has not received a response to its June 22, 2012 inquiry to the U.S. Department of Agriculture, Natural Resources Conservation Service in Lockport, NY requesting information regarding this statement (See Attachment 7).

While some prime farmland may exist in the vicinity of this project, Applicant feels the simple removal of track material should not have an adverse impact.

- (iii) **If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by 1105.9.**

Applicant received a telephone response dated June 27, 2012 from the New York Department of State Office of Communities & Waterfronts stating additional information will be required.

Documentation was received on July 2, 2012 from the Department of State, Division of Coastal Resources and the Applicant is complying with the requirements (See Attachment 8).

- (iv) **If the proposed action is an abandonment, state whether or not the right of way is suitable for alternative public use under 49 U.S.C. 10906 and explain why.**

The properties proposed to be abandoned may be suitable for the purpose of passenger transportation. CSXT and Amtrak have a letter of intent to transfer the railroad property of the proposed abandonment line segment to Amtrak contingent on the STB approval.

(4) ENERGY

- (i) **Describe the effect of the proposed action on transportation of energy resources.**

The proposed action will have no effect on the movement and/or recovery of energy resources.

- (ii) **Describe the effect of the proposed action on recyclable commodities.**

The proposed action will have no effect on the movement and/or

recovery of recyclable commodities.

- (iii) **State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.**

The proposed action will not result in an increase or decrease in overall energy efficiency.

- (iv) **If the proposed action will cause diversions from rail to motor carriage of more than: (A) 1,000 rail carloads a year; or (B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.**

There will be no diversion of rail traffic to motor carriage.

(5) AIR

- (i) **If the proposed action will result in either: (A) an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or (B) an increase in rail yard activity of at least 100% (measured by carload activity), or (C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.**

The above thresholds will not be exceeded.

- (ii) **If the proposed action affects a class I or non-attainment area under the Clean Air Act; and will it result in either: (A) an increase in rail traffic of a least 50% (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, or (B) an increase in rail yard activity of a least 20% (measured by carload activity), or (C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan.**

The above thresholds will not be exceeded.

- (iii) **If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity, the frequency of service; safety practices (including any speed restriction); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.**

Not applicable.

(6) NOISE

If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause: (i) an incremental increase in noise levels of three decibels Ldn or more, or (ii) an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

The above thresholds will not be exceeded.

(7) SAFETY

- (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

Applicant believes that the abandonment will have no effect on public health or safety. No freight operations currently exist on the line segment. Amtrak will continue passenger operations.

- (ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

Not applicable.

- (iii) If there are any known hazardous waste sites or sites where there have been known hazardous material spills on the right of way, identify the location of those sites and the types of hazardous materials involved.

Applicant's records do not indicate any known hazardous material spills or hazardous waste sites.

(8) BIOLOGICAL RESOURCES

- (i) Based on consultation with the U. S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or

threatened species or areas designated as a critical habitat, and if so, describes the effects.

Applicant has not received a response to its June 22, 2012 inquiry to the U.S. Fish and Wildlife Service in Hadley, MA requesting information regarding this statement. (See Attachment 9)

Based upon Applicant's intention to remove only the track material and the upper layer of ballast, we do not believe that any federally endangered or threatened species will be negatively affected or critical habitats modified if the line is abandoned.

- (ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.**

Based upon Applicant's review of the area, the line is not within any wildlife sanctuaries or refuges, National or State parks or forests.

(9) WATER

- (i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.**

Applicant has not received a response to its June 22, 2012 inquiry to the State EPA in Albany, NY requesting information regarding this statement (See Attachment 10).

Applicant does not contemplate any action known to be inconsistent with federal, state and/or local water quality standards. Any necessary permits or applications will be obtained as well as compliance with conditions or procedures required by regulatory agencies.

- (ii) Based on consultation with the U. S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.**

Applicant has not received a response to its June 22, 2012 inquiry to the U.S. Army Corps of Engineers in New York, NY requesting information regarding this statement (See Attachment 11).

Applicant is not aware of any designated wetlands or 100-year flood plains within the proposed project.

Upon receiving abandonment authority, removal of material will be accomplished by use of the right of way for access, along with existing public and private crossings, and no new access roads are contemplated. Applicant does not intend to disturb any of the underlying road-bed or perform any activities that would cause sedimentation or erosion of the soil, and do not anticipate any dredging or use of fill in the removal of the track material. The crossties and/or other debris may be transported away from the rail line and will not be discarded along the right of way nor be placed or left in streams or wetlands, or along the banks of such waterways. Also, if track is removed, appropriate measures will be implemented to prevent or control spills from fuels, lubricants or any other pollutant materials from entering any waterways. Based upon this course of action, Applicant does not believe a permit under Section 404 of the Clean Water Act will be required.

- (iii) **State whether permits under Section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action. (Applicants should contact the U. S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required).**

Applicant has not received a response to its June 22, 2012 inquiry to the U.S. Region 2 EPA Office in New York, NY requesting information regarding this statement (See Attachment 12).

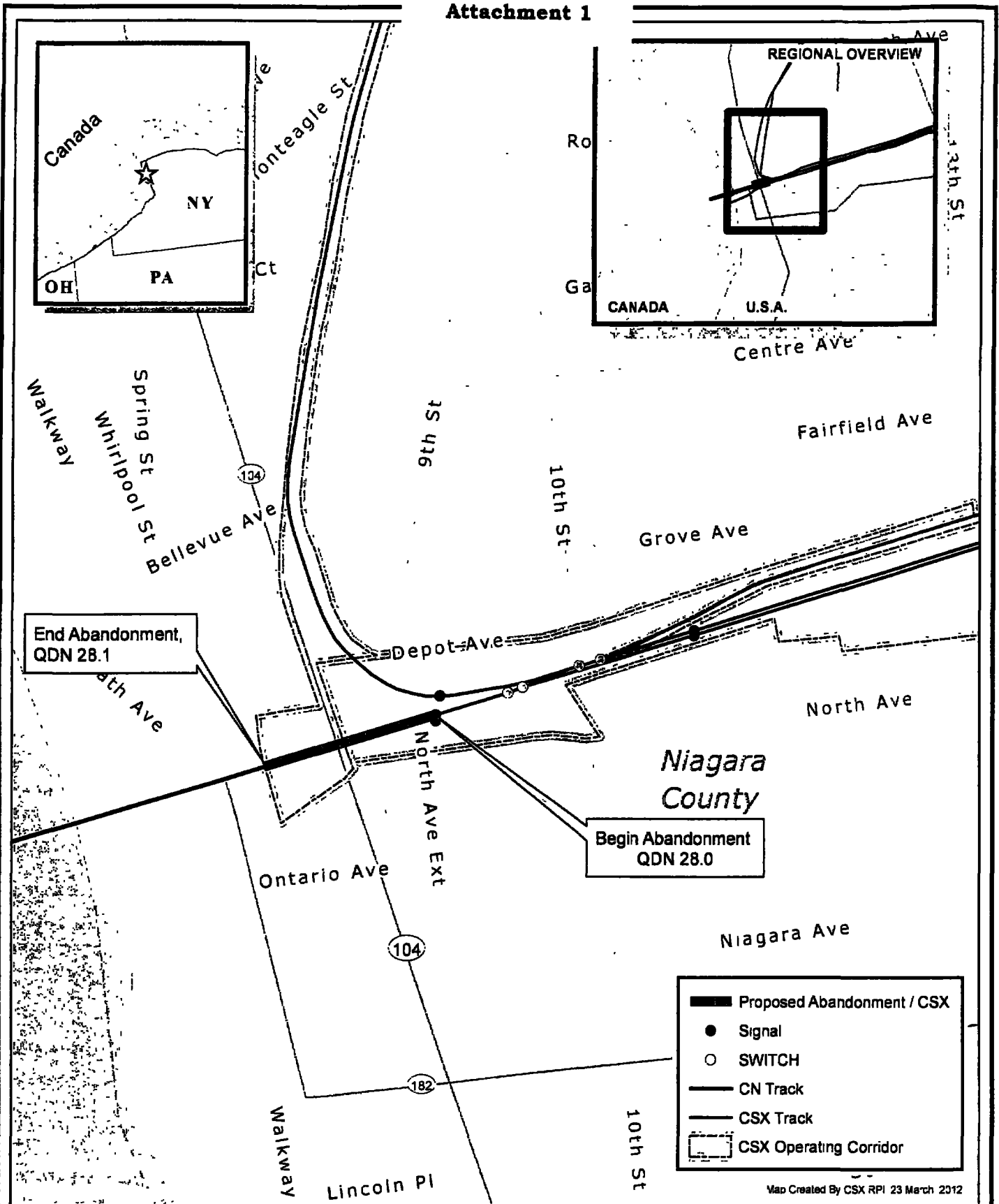
Based upon the course of action described in Section 9 (ii), Applicant does not believe a permit under Section 402 of the Clean Water Act will be required.

10. MITIGATION

Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

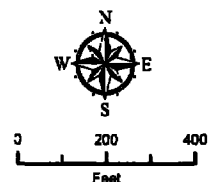
Applicant does not believe there will be any adverse environmental impacts in the project area as a result of this abandonment. However, Applicant will comply with reasonable State and Federal regulations and obtain any necessary permits required.

Attachment 1



CSX Transportation, Inc. Proposed Abandonment Niagara International Station

Milepost QDN 28.0 to QDN 28.1
Approx. Station 389.8611 to Station 390.4236
Total Distance of approx. 562 Feet
Niagara Falls, Niagara County, NY
STB Docket Number AB 55 (Sub-No. 716X)



Attachment 2

CSXT Abandonment External Distribution List Niagara County Niagara Falls, New York

New York State Historic Preservation Office
NY State Office of Parks, Recreation &
Historic Preservation
Peebles Island Resource Center
P.O. Box 189
Waterford, NY 12188-0189

EPA Region 2
Jacob K. Javits Federal Bldg
290 Broadway
New York, NY 10007-1866

NYSDOT
Main Office
50 Wolf Road
Albany, NY 12232

New York Department of
Environmental Conservation
625 Broadway
Albany, NY 12233

United States Department of Agriculture
Natural Resources Conservation Service
4487 Lake Ave
Lockport, NY 14094

National Geodetic Survey
Simon.Monroe@noaa.gov

U.S. Army Corps of Engineers
Jacob K. Javits Federal Building
26 Federal Plaza Room 2109
New York, NY 10278-0090

US Fish and Wildlife
Northeast Regional Office
300 Westgate Center Drive
Hadley, MA 01035-9589

Niagara County
Economic Development Office
Vantage Center, Suite One
6311 Inducon Corporate Drive
Sanborn, NY 14132

City of Niagara Falls
Division of Planning and Development
City Hall 745 Main Street
P.O. Box 69
Niagara Falls, NY 14302

National Park Service
Northeast Regional Office
200 Chestnut Street, Room 322
U.S. Custom House
Philadelphia, PA 19106

New York Department of State
Office of Communities & Waterfronts
99 Washington Ave. Suite 1010
Albany, NY 12231-0001



Attachment 3

500 Water Street – J-315
Jacksonville, FL 32202
Phone: (904) 359-1247
FAX: (904) 359-1373
E-Mail: Jo_Burroughs@csx.com

**Jo Ann Burroughs
Manager Network Services**

June 22, 2012

**NYSDOT
Main Office
50 Wolf Road
Albany, NY 12232**

Dear Sir/Madam:

Please be advised that CSX Transportation, Inc. (CSXT) is proposing to file with the Surface Transportation Board (STB) a Notice of Exemption seeking authority to abandon a portion of its rail line between railroad milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1 on CSXT's Northern Region, Albany Division, Niagara Subdivision, Niagara County, New York, as depicted on the attached map.

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This action requires Surface Transportation Board approval and Federal Regulations [49 C.F.R. 1105.7(3) (i)] require that CSXT develop a response to the following statement:

"Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, please state



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Manager Network Services

whether the proposed action is consistent with existing land use plans. Please describe any inconsistencies."

CSXT would appreciate your comments regarding current and future land use in relationship to the Line.

As further information, CSXT will provide a preliminary environmental report in the coming weeks which will outline the scope of the proposed activity and include any comments received from your office. This environmental report can be sent electronically by email or through the United States Postal Service (USPS). Please email Jo_Burroughs@csx.com if you wish to receive the report electronically. If we do not receive notification, it will be mailed via USPS.

Enclosed is a distribution list of all parties that have been copied on the proposed action. If you have any questions, please feel free to call or email me.

Sincerely,

Jo Ann Burroughs

Enclosures (2)



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Jo Ann Burroughs
Manager Network Services

CSXT Environmental Report Response Form

RE: STB Docket Number AB 55 (Sub No. 716X)

Please be advised that on or about August 1, 2012, CSX Transportation, Inc. (CSXT) is proposing to file with the Surface Transportation Board (STB) a Notice of Exemption seeking authority to abandon a portion of its rail line between railroad milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1 on CSXT's Northern Region, Albany Division, Niagara Subdivision, Niagara County, Niagara Falls, New York.

Agency response (check one):

☒ No Environmental Impact

☐ Environmental Impact as follows (or attached):

Date:

7/24/12

Signature:

Name:

Jeffrey Zappieri

Title:

Chief, Regulatory Review



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Jo Ann Burroughs
Manager Network Services

June 22, 2012

City of Niagara Falls
Division of Planning and Development
City Hall 745 Main Street
P.O. Box 69
Niagara Falls, NY 14302

Dear Sir/Madam:

Please be advised that CSX Transportation, Inc. (CSXT) is proposing to file with the Surface Transportation Board (STB) a Notice of Exemption seeking authority to abandon a portion of its rail line between railroad milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1 on CSXT's Northern Region, Albany Division, Niagara Subdivision, Niagara County, New York, as depicted on the attached map.

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Sincerely,

Jo Ann Burroughs

Enclosures (2)



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Agency response (check one):

☒ No Environmental Impact

☐ Environmental Impact as follows (or attached):

No negative environmental impacts are expected. The proposed abandonment action by CSXT is not inconsistent with City of Niagara Falls local land use and zoning. The primary use of the corridor will continue to support railroad uses with passenger rail becoming the more dominant use. The City of Niagara Falls is working with other levels of government and passenger rail partners to restructure the railroad infrastructure to serve expanded passenger rail service in future. Further, the proposed abandonment action by CSXT is consistent with social, economic and other essential considerations.

Date:

July 19, 2012

Signature:

Thomas J. DeSantis

Name:

THOMAS J. DESANTIS, AICP

Title:

SENIOR PLANNER
City of Niagara Falls, NY



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Jacksonville, FL 32202
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Jo Ann Burroughs
Manager Network Services

June 22, 2012

Niagara County
Economic Development Office
Vantage Center, Suite One
6311 Inducon Corporate Drive
Sanborn, NY 14132

Dear Sir/Madam:

Please be advised that CSX Transportation, Inc. (CSXT) is proposing to file with the Surface Transportation Board (STB) a Notice of Exemption seeking authority to abandon a portion of its rail line between railroad milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1 on CSXT's Northern Region, Albany Division, Niagara Subdivision, Niagara County, New York, as depicted on the attached map.

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Jo Ann Burroughs
Manager Network Services

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Enclosed is a distribution list of all parties that have been copied on the proposed action. If you have any questions, please feel free to call or email me.

Sincerely,

Jo Ann Burroughs
Enclosures (2)



Attachment 6

500 Water Street – J-315
Jacksonville, FL 32202
Phone: (904) 359-1247
FAX: (904) 359-1373
E-Mail: Jo_Burroughs@csx.com

**Jo Ann Burroughs
Manager Network Services**

June 22, 2012

**National Park Service
Northeast Regional Office
200 Chestnut Street, Room 322
U.S. Custom House
Philadelphia, PA 19106**

Dear Sir/Madam:

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Sincerely,

Jo Ann Burroughs

Enclosures (2)



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**Jo Ann Burroughs
Manager Network Services**

June 22, 2012

**United States Department of Agriculture
Natural Resources Conservation Service
4487 Lake Ave
Lockport, NY 14094**

Dear Sir/Madam:

Please be advised that CSX Transportation, Inc. (CSXT) is proposing to file with the Surface Transportation Board (STB) a Notice of Exemption seeking authority to abandon a portion of its rail line between railroad milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1 on CSXT's Northern Region, Albany Division, Niagara Subdivision, Niagara County, New York, as depicted on the attached map.

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This action requires Surface Transportation Board approval and Federal Regulations 49 C.F.R. 1105.7(3) (ii) require that CSXT develop a response to the following statement:

"Based on consultation with the U. S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land."



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Manager Network Services

Please advise if any of the land contiguous to CSXT's line in the project area is classified as prime agriculture land.

As further information, CSXT will provide a preliminary environmental report in the coming weeks which will outline the scope of the proposed activity and include any comments received from your office. This environmental report can be sent electronically by email or through the United States Postal Service (USPS). Please email Jo_Burroughs@csx.com if you wish to receive the report electronically. If we do not receive notification, it will be mailed via USPS.

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Sincerely,

Jo Ann Burroughs

Enclosures (2)

Andrew M. Cuomo
Governor

CESAR A. PERALES
Acting Secretary of State

Date: 6/27/2012

Mr. Brian O'Boyle
500 Water Street - J315
Jacksonville, Florida 32202

Documents Needed for Coastal Consistency Submission for Federal Authorization

The Division of Coastal Resources received correspondence regarding your application for a federal permit or other authorization and the proposal's consistency with the New York Coastal Management Program. Unfortunately, your correspondence did not include all the necessary information and data required for us to begin our review of your proposal. Please provide us with the following necessary information and data. Please refer to the file number identified below when submitting the required information. Once the required information has been received and our review has begun additional information needs may be identified.

- X A copy of a completed and a signed Federal Consistency Assessment Form (FCAF) including the required written analysis (cf. D.2) of the proposed activity's consistency with the relevant enforceable policies of the State's Coastal Management Program. (Enclosed - Please Sign)
- X A copy of your application for federal agency authorization (e.g. a Joint U.S. Army Corps of Engineers & NYS Department of Environmental Conservation permit application). (Enclosed)
- X copy of all supporting documentation submitted with the federal application and the following information if it is not included in the above:
 - X a detailed description of the proposed activity including its associated facilities and coastal effects
 - X location map showing where the activity will be conducted
 - X site map drawn to scale and showing all components of the activity
 - X recent color photographs of the project site
 - X statement of the purpose of, and need for, the activity
 - ☐ identification of the owner(s) of all properties on which the activity will be conducted and of abutting property owners, both upland and underwater
 - ☐ written analysis of alternatives to the proposed activity considered by the applicant
 - ☐ A copy of the Final Environmental Impact Statement, if one is required by an involved federal or state agency
 - ☐ Copies of any applications for permits or other authorizations, and related correspondence, submitted to involved State agencies (e.g. DEC, OGS, SHPO, PSC).

Please submit the above checked information to: NYS Department of State
Office of Coastal, Local Government
and Community Sustainability
One Commerce Plaza - Suite 1010
99 Washington Avenue
Albany, New York 12231

If you have any questions regarding this matter, you may contact us by telephone at (518) 474-6000. (Additional information is available on our website, www.dos.state.ny.us.)



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Jo Ann Burroughs
Manager Network Services

June 22, 2012

Received

JUN 25 2012

NYSDOS
Coastal Resources

New York Department of State
Office of Communities & Waterfronts
99 Washington Ave Suite 1010
Albany, NY 12231-0001

Dear Sir/Madam:

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This action requires Surface Transportation Board approval and Federal Regulations 49 C.F.R. 1105.7 (9) (i) and (iii) require that CSXT develop a response to the following statements:

(i) *"Based on consultation with State Water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies."*

(iii) *"State whether permits under Section 402 of the Clean Water Act 33 U.S.C. 1342 are*



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Manager Network Services

required for the proposed action."

There are no refueling or maintenance areas within the project area. The removal or repair of CSXT's rail material will be accomplished by use of the right of way for access, along with existing public and private crossings, and no new access roads are contemplated. CSXT does not intend to disturb any of the underlying roadbeds and do not anticipate any dredging or use of fill in the removal or repair of the track material. The crossties and/or other debris will be transported away from the rail line and will not be discarded along the right of way, nor be placed or left in streams or wetlands, or along the banks of such waterways. During track removal or repair, appropriate measures will be implemented to prevent or control spills from fuels, lubricants or any other pollutant materials from entering any watercourses.

Based upon the above described actions, CSXT would appreciate receiving your concurrence with its position that the proposed project is consistent with applicable Federal, State and local water quality standards, and that no permits under Section 402 are required at this time.

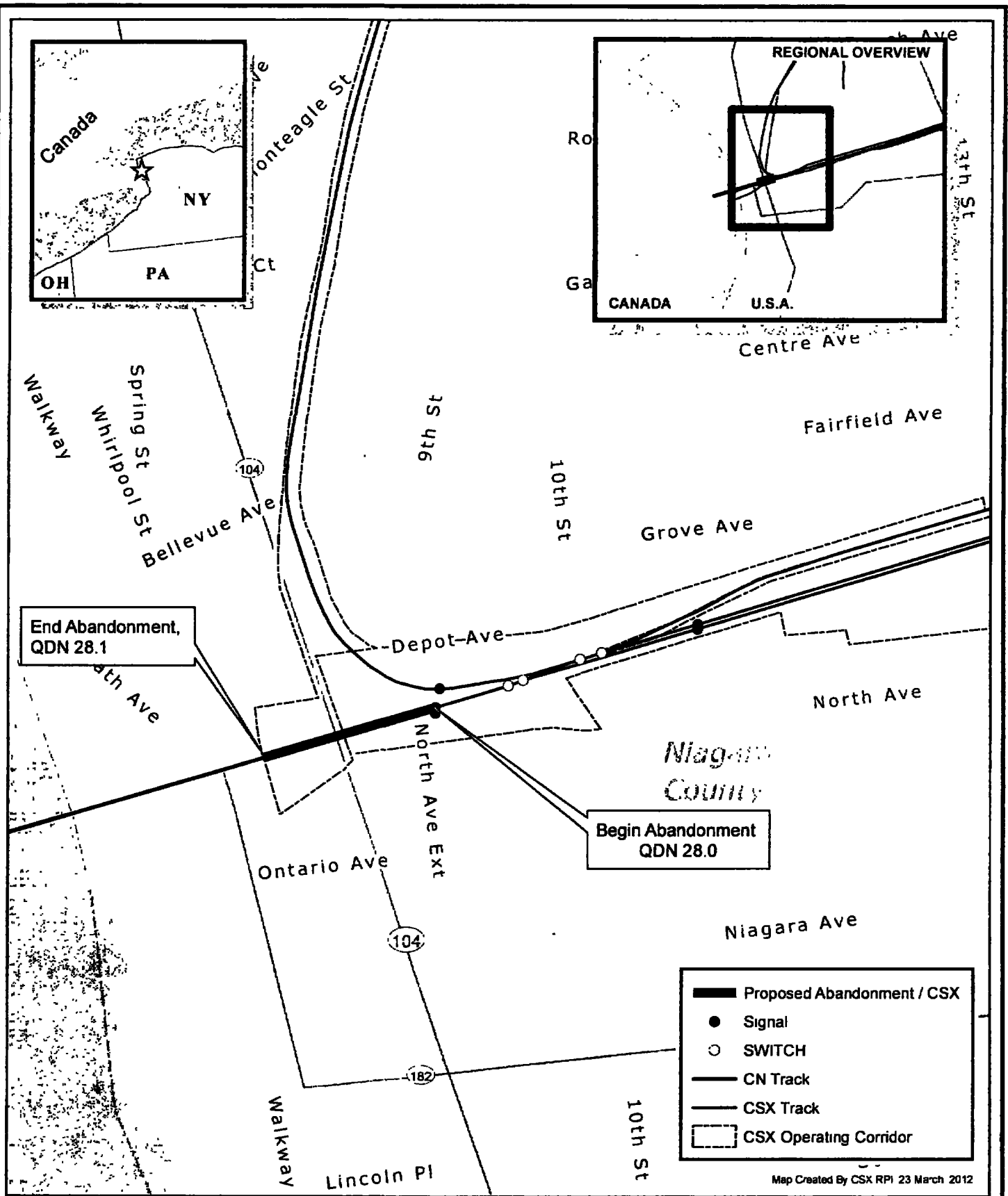
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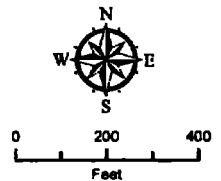
Jo Ann Burroughs

Enclosures (2)



CSX Transportation, Inc. Proposed Abandonment Niagara International Station

Milepost QDN 28.0 to QDN 28.1
Approx. Station 389.8611 to Station 390.4236
Total Distance of approx. 562 Feet
Niagara Falls, Niagara County, NY
STB Docket Number AB35 (Sub-No. 716X)





JOINT APPLICATION FORM - INSTRUCTIONS

Use this application to apply for Permits and Determinations from all of the listed state and federal agencies. This form is for all projects that affect streams, waterways, waterbodies, wetlands, coastal areas and sources of water supply.



US Army Corps of Engineers (USACE)
New York District
Buffalo District

New York State

Department of Environmental Conservation (DEC)
Office of General Services (OGS)
Department of State (DOS)

Type or print clearly in ink. This Form has 2 pages. Incomplete, illegible or inaccurate information may delay processing and a final decision on your application. Individual Agencies may request that you submit additional information to complete your application. If you have any questions, contact the Agencies or check the Agency websites listed on Page 2 for further information.

PERMITS REQUESTED: You are responsible for obtaining all federal, state or local permits or other approvals. Check all Permits/Determinations you are applying for from the listed Agencies.


You must obtain separate authorizations or determinations of no permit required from each Agency in accordance with their jurisdiction prior to initiation of work.

APPLICANT / OWNER / CONTACT INFORMATION AND SIGNATURES: Signatures of the Applicant, Owner and Agent, where applicable, are required.

Applications by a Corporation must be signed by a member of the board of directors or a "high managerial agent" of the corporation as that term is defined in the § 20.20 of the Penal Law; a Partnership by a general partner; a Sole Proprietorship by the proprietor; a Limited Liability Company by member or manager in accordance with the LLC's articles of organization as filed with the Secretary of State.

Applications by a State Agency must be signed by a person duly designated by the commissioner or other agency head. Applications by Municipalities (counties, cities, towns and villages) and Public Corporations must be signed by the chief executive officer, the head of a subordinate agency or department, or a person duly designated by the chief executive officer.


Construction or work contractors may serve as a contact/agent on behalf of the applicant, but cannot be identified as the applicant or prospective permittee should a permit be issued.

PROJECT / FACILITY LOCATION INFORMATION: If you are able to supply accurate project location coordinates, please do so. Location Coordinates are expressed in New York Transverse Mercator (NYTM) units (i.e., UTM Zone 18 expanded to encompass the entire state) based on the North American Datum 1983, or Latitude and Longitude. Coordinates may be obtained from DEC's online Environmental Resource Mapper (www.dec.ny.gov/animals/38801.html), using the Identify  tool.

PROJECT DESCRIPTION AND PURPOSE: Provide a complete narrative description of the proposed work and its purpose. Attach additional page(s) if necessary.

REQUIRED APPLICATION ATTACHMENTS

Attach and submit the following to each involved Agency:

- 1) **LOCATION MAP** - A US Geological Survey (USGS) Quadrangle Map, or equivalent identifying the project location. The map should include wetlands, seasonally wet streams and ditches. An acceptable location map may be obtained from DEC's online Environmental Resource Mapper (<http://www.dec.ny.gov/animals/38801.html>), using the Printer  tool.
- 2) **PROJECT PLANS** - A sketch plan view and cross-section drawn to scale with dimensions given, or engineering drawings showing location and extent of work. Note from which direction the photographs required in (3) are taken.

- 3) **PHOTOGRAPHS** - At least 3 color photographs, taken from multiple directions, which clearly depict the site of the proposed activity without snow cover. Include any existing structures on the site and the area surrounding the site. Indicate the time and date when taken.

OTHER REQUIREMENTS

If applying to State Agencies: State Environmental Quality Review Act regulation (SEQR), 6 NYCRR Part 617) is applicable (see www.dec.ny.gov/regs/4490.html) -

- a) If the project is an Unlisted Action, submit a completed Part 1 of a Short Environmental Assessment Form. *
- b) If the project is a Type I Action, submit a completed Part 1 of a Full Environmental Assessment Form. *

If applying to NYS DEC - Complete the **Permission to Inspect Property Supplement** * to provide consent for DEC inspection. Failure to grant consent can be grounds for, and may result in, permit denial.

If applying to USACE/NYS DOS - If the project requires a federal permit and lies within or affects the Coastal Zone (see the DOS Coastal Area Maps at http://www.nyswaterfronts.com/maps_regions.asp) submit a completed Federal Consistency Assessment Form (available at www.nyswaterfronts.com/consistency_federal.asp) to NYS DOS with a copy to USACE.

For USACE Section 404 Clean Water Act permits and specific Nationwide permits - a 401 Water Quality Certification must be obtained from NYS DEC.

For projects within the Adirondack Park - To determine permitting applicability, contact -
NYS Adirondack Park Agency, 1133 NYS Rte 86, PO Box 99,
Ray Brook, NY 12977 (518) 891-4050 www.apa.state.ny.us

SPECIAL SUPPLEMENTS AND REQUIREMENTS FOR SPECIFIC PERMIT APPLICATIONS

Applications for ... must be accompanied by ...

- **Dams and Impoundment Structures** Supplement D-1 *
- **Docks and Moorings** Supplement D-2 *
- **Water Supply** Supplement W-1 *
- **Long Island Well** Regional specific supplement *
- **Wild, Scenic and Recreational River Systems** Supplement WSR-1 *
- **Incidental Take** Supplement IT-1 *
- **Aquatic Vegetation, Aquatic Insect, and Fish Control** ... Category specific form available at NYS DEC offices and www.dec.ny.gov/chemical/8530.html . Submit applications to the NYS DEC regional office, Attn: Bureau of Pesticides.
- **USACE Section 404 Clean Water Act and DEC Freshwater Wetlands and DEC Tidal Wetlands** ... Applications to disturb a wetland or waterway by placing fill or performing mechanized land clearing, ditching, channelization, dredging, or excavation activities should provide a discussion of practicable alternatives considered to avoid, minimize and/or mitigate the proposed project impacts. Particular justification should be given as to why the alternatives are not suitable.
- **DEC Freshwater and Tidal Wetlands** ... Applications fees are required. Refer to: www.dec.ny.gov/permits/65153.html

* Forms are available at NYS DEC offices and at www.dec.ny.gov/permits/6222.html

JOINT APPLICATION FORM INSTRUCTIONS - PAGE 2 OF 2

SUBMISSION OF APPLICATION FORMS AND ATTACHMENTS

Separately mail the completed application to each involved Agency based on project location and permit(s) requested.

For DEC - Mail **3 copies** of: this Application, any supplemental forms, and all required attachments.

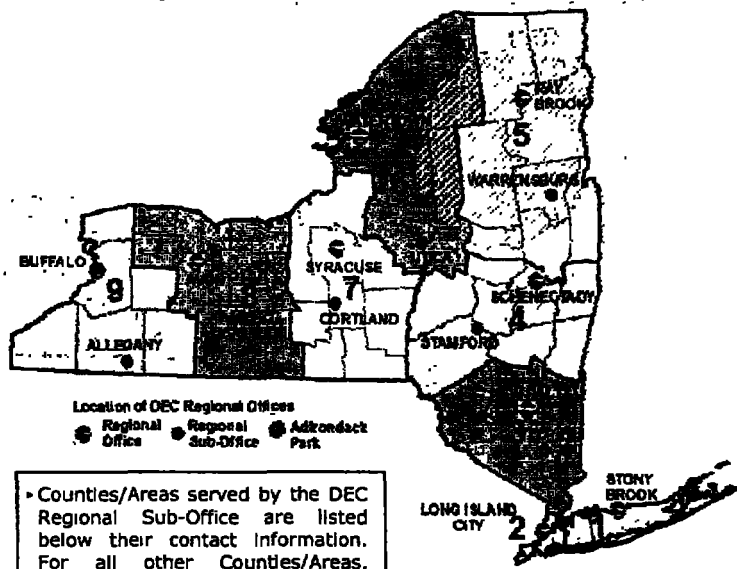
For Other Agencies - Mail **1 copy** of: this Application, any supplemental forms, and all required attachments.

Refer to each Agency's website for specifications on submitting documents on electronic media or via email.

AGENCY CONTACT INFORMATION

NYS Department of Environmental Conservation

www.dec.ny.gov



NYS DEC REGION 1

Regional Permit Administrator
SUNY @ Stony Brook
50 Circle Road
Stony Brook, NY 11790-3409
(631) 444-0365
email: r1dep@gw.dec.state.ny.us

NYS DEC REGION 2

Regional Permit Administrator
1 Hunter's Point Plaza
47-40 21st Street
Long Island City, NY 11101-5407
(718) 482-4997
email: r2dep@gw.dec.state.ny.us

NYS DEC REGION 3

Regional Permit Administrator
21 South Putt Corners Road
New Paltz, NY 12561-1696
(845) 256-3054
email: r3dep@gw.dec.state.ny.us

NYS DEC REGION 4

Regional Permit Administrator
1130 North Westcott Road
Schenectady, NY 12306-2014
(518) 357-2069
email: r4dep@gw.dec.state.ny.us

NYS DEC REGION 4 Sub-Office

Regional Permit Administrator
65561 State Hwy 10
Stamford, NY 12167-9503
(607) 652-7741
email: r4dep@gw.dec.state.ny.us
• For Schoharie, Otsego, Delaware, Counties, and Greene County towns within the NYC watershed

NYS DEC REGION 5

Regional Permit Administrator
PO Box 296
1115 Route 86
Ray Brook, NY 12977-0296
(518) 897-1234
email: r5dep@gw.dec.state.ny.us

NYS DEC REGION 5 Sub-Office

Regional Permit Administrator
232 Golf Course Rd
Warrensburg, NY 12885-1172
(518) 623-1281
email: r5dep@gw.dec.state.ny.us
• For Washington, Warren, Saratoga, Fulton Counties

NYS DEC REGION 6

Regional Permit Administrator
317 Washington Street
Watertown, NY 13601-3787
(315) 785-2245
email: r6dep@gw.dec.state.ny.us

NYS DEC REGION 6 Sub-Office

Regional Permit Administrator
207 Genesee Street
Utica, NY 13501-3787
(315) 793-2555
email: r6dep@gw.dec.state.ny.us
• For Herkimer, Oneida Counties

NYS DEC REGION 7

Regional Permit Administrator
615 Erie Blvd West
Syracuse, NY 13204-2400
(315) 426-7438
email: r7dep@gw.dec.state.ny.us

NYS DEC REGION 7 Sub-Office

Regional Permit Administrator
1285 Fisher Avenue
Cortland, NY 13045-1090
(607) 753-3095
email: r7dep@gw.dec.state.ny.us
• For Tompkins, Cortland, Broome, Chenango, Tioga Counties

NYS DEC REGION 8

Regional Permit Administrator
6274 E. Avon - Lima Road
Avon, NY 14414-9519
(585) 226-5400
email: r8dep@gw.dec.state.ny.us

NYS DEC REGION 9

Regional Permit Administrator
270 Michigan Avenue
Buffalo, NY 14203-2915
(716) 851-7165
email: r9dep@gw.dec.state.ny.us

NYS DEC REGION 9 Sub-Office

Regional Permit Administrator
182 East Union, Suite 3
Allegany, NY 14706-1328
(716) 372-0645
email: r9dep@gw.dec.state.ny.us
• For Allegany, Cattaraugus, Chautauqua Counties

US Army Corps of Engineers

www.usace.army.mil

For DEC Regions 1, 2 and 3
US Army Corps of Engineers NY District
ATTN: Regulatory Branch
26 Federal Plaza, Room 1937
New York, NY 10278-0090
email: CENAN.PublicNotice@usace.army.mil

For DEC Regions 1, 2,
Westchester County and
Rockland County -
(917) 790-8511

For the other counties
of DEC Region 3 -
(917) 790-8411

For DEC Regions 4, 5
Department of the Army
ATTN: CENAN-OP-R
NY District, Corps of Engineers
1 Buffington Street
Building 10, 3rd Floor
Watervliet, NY 12189-4000
(518) 266-6350 - Permits team
(518) 266-6360 - Compliance Team
email: cenan.rfo@usace.army.mil

For DEC Regions 6, 7, 8, 9
US Army Corps of Engineers
Buffalo District
ATTN: Regulatory Branch
1776 Niagara Street
Buffalo, NY 14207-3199
(716) 879-4330
email: LRB.Regulatory@usace.army.mil

Statewide

NYS Department of State
Division of Coastal Resources
Consistency Review Unit
One Commerce Plaza
99 Washington Ave, Suite 1010
Albany, NY 12231-00001
(518) 474-6000
www.nyswaterfronts.com

Statewide

NYS Office of General Services
Real Estate Development - Land Management
Corning Tower, 26th Floor
Empire State Plaza
Albany, NY 12242-0001
(518) 474-2195
www.ogs.state.ny.us



JOINT APPLICATION FORM

For Permits/Determinations to undertake activities affecting streams, waterways, waterbodies, wetlands, coastal areas and sources of water supply.



New York
State

You must separately apply for and obtain separate Permits/Determinations from each involved agency prior to proceeding with work. Please read all instructions.

US Army Corps of
Engineers (USACE)

APPLICATIONS TO

1. NYS Department of Environmental Conservation

Check all permits that apply:

- | | |
|--|---|
| <input type="checkbox"/> Stream Disturbance | <input type="checkbox"/> Coastal Erosion Management |
| <input type="checkbox"/> Excavation and Fill in Navigable Waters | <input type="checkbox"/> Wild, Scenic and Recreational Rivers |
| <input type="checkbox"/> Docks, Moorings or Platforms | <input type="checkbox"/> Water Supply |
| <input type="checkbox"/> Dams and Impoundment Structures | <input type="checkbox"/> Long Island Well |
| <input type="checkbox"/> 401 Water Quality Certification | <input type="checkbox"/> Aquatic Vegetation Control |
| <input type="checkbox"/> Freshwater Wetlands | <input type="checkbox"/> Aquatic Insect Control |
| <input type="checkbox"/> Tidal Wetlands | <input type="checkbox"/> Fish Control |
| | <input type="checkbox"/> Incidental Take of Endangered/Threatened Species |

☐ I am sending this application to this agency.

2. US Army Corps of Engineers

Check all permits that apply:

- ☐ Section 404 Clean Water Act
☐ Section 10 Rivers and Harbors Act
☐ Nationwide Permit(s) - Identify Number(s): _____

Preconstruction Notification -

☐ Y / ☐ N

☐ I am sending this application to this agency.

3. NYS Office of General Services

Check all permits that apply:

- ☐ State Owned Lands Under Water
☐ Utility Easement (pipelines, conduits, cables, etc.)
☐ Docks, Moorings or Platforms

☐ I am sending this application to this agency.

4. NYS Department of State

Check if this applies:

- ☐ Coastal Consistency Concurrence

☐ I am sending this application to this agency.

5. Name of Applicant (use full name)

Applicant must be:

- ☐ Owner
☐ Operator
☐ Lessee
(check all that apply)

Mailing Address

Post Office City

State Zip Code

Telephone (daytime)

Email

Taxpayer ID (If applicant is NOT an individual):

6. Name of Facility or Property Owner (if different than Applicant)

Mailing Address

Post Office City

State Zip Code

Telephone (daytime)

Email

7. Contact/Agent Name

Company Name

Mailing Address

Post Office City

State Zip Code

Telephone (daytime)

Email

8. Project / Facility Name

Property Tax Map Section / Block / Lot Number

Project Location - Provide directions and distances to roads, bridges and bodies of waters:

Street Address, if applicable

Post Office City

State
NY

Zip Code

Town / Village / City

County

Name of USGS Quadrangle Map

Stream/Water Body Name

Location Coordinates: Enter NYTMs in kilometers, OR Latitude/Longitude

NYTM-E

NYTM-N

Latitude

Longitude

For Agency Use Only

DEC Application Number

USACE Number

JOINT APPLICATION FORM - PAGE 2 OF 2
Submit this completed page as part of your Application.

- 9. Project Description and Purpose:** Provide a complete narrative description of the proposed work and its purpose. Attach additional page(s) if necessary. Include: description of current site conditions and how the site will be modified by the proposed project; structures and fill materials to be installed; type and quantity of materials to be used (i.e., square ft of coverage and cubic yds of fill material and/or structures below ordinary/mean high water) area of excavation or dredging, volumes of material to be removed and location of dredged material disposal or use; work methods and type of equipment to be used; pollution control methods and mitigation activities proposed to compensate for resource impacts; and where applicable, the phasing of activities. **ATTACH PLANS ON SEPARATE PAGES.**

Proposed Use: <input type="checkbox"/> Private <input type="checkbox"/> Public <input type="checkbox"/> Commercial	Proposed Start Date:	Estimated Completion Date:
--	----------------------	----------------------------

Has Work Begun on Project? ☐ Yes ☐ No If Yes, explain.

Will Project Occupy Federal, State or Municipal Land? ☐ Yes ☐ No If Yes, please specify.

10. List Previous Permit / Application Numbers (if any) and Dates:

11. Will this project require additional Federal, State, or Local Permits including zoning changes? ☐ Yes ☐ No If yes, please list:

12. Signatures. If applicant is not the owner, both must sign the application.

I hereby affirm that information provided on this form and all attachments submitted herewith is true to the best of my knowledge and belief. False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law. Further, the applicant accepts full responsibility for all damage, direct or indirect, of whatever nature, and by whomever suffered, arising out of the project described herein and agrees to indemnify and save harmless the State from suits, actions, damages and costs of every name and description resulting from said project. In addition, Federal Law, 18 U.S.C., Section 1001 provides for a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both where an applicant knowingly and willingly falsifies, conceals, or covers up a material fact; or knowingly makes or uses a false, fictitious or fraudulent statement.

Signature of Applicant	Printed Name	Title	Date
Signature of Owner	Printed Name	Title	Date
Signature of Agent	Printed Name	Title	Date

For Agency Use Only		DETERMINATION OF NO PERMIT REQUIRED	
1234567890123456789012345678901234567890		Agency Project Number	
(Agency Name)		has determined that No Permit is required from this Agency for the project described in this application.	
Agency Representative:	Name (printed)	Title	
	Signature	Date	

NEW YORK STATE DEPARTMENT OF STATE
COASTAL MANAGEMENT PROGRAM

Federal Consistency Assessment Form

An applicant, seeking a permit, license, waiver, certification or similar type of approval from a federal agency which is subject to the New York State Coastal Management Program (CMP), shall complete this assessment form for any proposed activity that will occur within and/or directly affect the State's Coastal Area. This form is intended to assist an applicant in certifying that the proposed activity is consistent with New York State's CMP as required by U.S. Department of Commerce regulations (15 CFR 930.57). It should be completed at the time when the federal application is prepared. The Department of State will use the completed form and accompanying information in its review of the applicant's certification of consistency.

A. APPLICANT (please print)

1. Name: _____
2. Address: _____
3. Telephone: Area Code () _____

B. PROPOSED ACTIVITY

1. Brief description of activity:

2. Purpose of activity:

3. Location of activity:

County	City, Town, or Village	Street or Site Description
--------	------------------------	----------------------------

4. Type of federal permit/license required: _____

5. Federal application number, if known: _____

6. If a state permit/license was issued or is required for the proposed activity, identify the state agency and provide the application or permit number, if known:

D. ADDITIONAL STEPS

1. If all of the questions in Section C are answered "NO", then the applicant or agency shall complete Section E and submit the documentation required by Section F.
2. If any of the questions in Section C are answered "YES", then the applicant or agent is advised to consult the CMP, or where appropriate, the local waterfront revitalization program document*. The proposed activity must be analyzed in more detail with respect to the applicable state or local coastal policies. On a separate page(s), the applicant or agent shall: (a) identify, by their policy numbers, which coastal policies are affected by the activity, (b) briefly assess the effects of the activity upon the policy; and, (c) state how the activity is consistent with each policy. Following the completion of this written assessment, the applicant or agency shall complete Section E and submit the documentation required by Section F.

E. CERTIFICATION

The applicant or agent must certify that the proposed activity is consistent with the State's CMP or the approved local waterfront revitalization program, as appropriate. If this certification cannot be made, the proposed activity shall not be undertaken. If this certification can be made, complete this Section.

"The proposed activity complies with New York State's approved Coastal Management Program, or with the applicable approved local waterfront revitalization program, and will be conducted in a manner consistent with such program."

Applicant/Agent's Name: _____

Address: _____

Telephone: Area Code () _____

Applicant/Agent's Signature: _____ Date: _____

F. SUBMISSION REQUIREMENTS

1. The applicant or agent shall submit the following documents to the **New York State Department of State, Office of Coastal, Local Government and Community Sustainability, Attn: Consistency Review Unit, 1 Commerce Plaza, 99 Washington Avenue - Suite 1010, Albany, New York 12231.**

- a. Copy of original signed form.
- b. Copy of the completed federal agency application.
- c. Other available information which would support the certification of consistency.

2. The applicant or agent shall also submit a copy of this completed form along with his/her application to the federal agency.

3. If there are any questions regarding the submission of this form, contact the Department of State at (518) 474-6000.

*These state and local documents are available for inspection at the offices of many federal agencies, Department of environmental Conservation and Department of State regional offices, and the appropriate regional and county planning agencies. Local program documents are also available for inspection at the offices of the appropriate local government.



STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

ANDREW M. CUOMO
GOVERNOR

CESAR A. PERALES
SECRETARY OF STATE

July 24, 2012

Jo Ann Burroughs
CSX Transportation, Inc.
500 Water Street, J-315
Jacksonville, Florida 32202

Re: S-2012-0079 - CSX Transportation, Inc.
Notice of Exemption seeking authority to abandon a portion of its rail line between railroad milepost QDN 28.0 near North Avenue to the end of track at railroad milepost 28.1 on CSXT's Northern Region, Albany Division, Niagara Subdivision, Niagara County, Niagara Falls, NY
No Review Necessary

Dear Ms. Burroughs:

The Department of State received your Federal Consistency Assessment Form and supporting information on July 13, 2012.

The proposed activity does not appear to require a federal permit, license, or other form of authorization. Therefore, further review of this project by the Department of State, and concurrence with your consistency certification, is not necessary.

This determination is without prejudice to and does not obviate the need to obtain all other applicable licenses, permits, other forms of authorization or approval that may be required pursuant to existing State or Federal statutes.

If you have any questions or need any additional information regarding this matter, please contact me at (518) 474-6000.

Sincerely,

Jeffrey Zappieri
Supervisor of Consistency Review
Division of Coastal Resources

JZ/dc



500 Water Street - J-315
Jacksonville, FL 32202
Phone: (904) 359-1247
FAX: (904) 359-1373
E-Mail: Jo_Burroughs@csx.com

Jo Ann Burroughs
Manager Network Services

CSXT Environmental Report Response Form

RE: STB Docket Number AB 55 (Sub No. 716X)

Please be advised that on or about August 1, 2012, CSX Transportation, Inc. (CSXT) is proposing to file with the Surface Transportation Board (STB) a Notice of Exemption seeking authority to abandon a portion of its rail line between railroad milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1 on CSXT's Northern Region, Albany Division, Niagara Subdivision, Niagara County, Niagara Falls, New York.

Agency response (check one):

☒ No Environmental Impact

☐ Environmental Impact as follows (or attached):

Date:

7/24/12

Signature:

Name:

Jeffrey Zappieri

Title:

Chief, Regulatory Review



500 Water Street – J-315
Jacksonville, FL 32202
Phone: (904) 359-1247
FAX: (904) 359-1373
E-Mail: Jo_Burroughs@csx.com

Jo Ann Burroughs
Manager Network Services

June 22, 2012

US Fish and Wildlife
Northeast Regional Office
300 Westgate Center Drive
Hadley, MA 01035-9589

Dear Sir/Madam:

Please be advised that CSX Transportation, Inc. (CSXT) is proposing to file with the Surface Transportation Board (STB) a Notice of Exemption seeking authority to abandon a portion of its rail line between railroad milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1 on CSXT's Northern Region, Albany Division, Niagara Subdivision, Niagara County, New York, as depicted on the attached map.

The above-referenced 0.1-mile line has not generated any originating, terminating or overhead freight traffic in over two (2) years. No new freight rail-oriented business is expected to develop, and the line is no longer required for operating purposes. CSXT currently maintains the line for Amtrak operations. The Canadian National Railway (CN) has filed with the Surface Transportation Board to abandon its line of road to our railroad milepost marker QDN 28.1 and plans to sell their interest in the track and land to Amtrak. CSXT will arrange for a purchase and sale agreement with Amtrak to include the track and land from QDN 28.0 to QDN 28.1 contingent on STB approval for abandonment. Amtrak will take over the maintenance, construction and dispatch from the west of QDN 28.0

The action requires Surface Transportation Board approval and Federal Regulations 49 C.F.R. 1105.7 (8) (i) and (ii) require that CSXT develop responses to the following statements:

(i) *Based on consultation with the U. S. Fish and Wildlife Service state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.*



500 Water Street – J-316
Jacksonville, FL 32202
Phone: (904) 359-1247
FAX: (904) 359-1373
E-Mail: Jo_Burroughs@csx.com

Jo Ann Burroughs
Manager Network Services

(ii) *State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.*

The removal or repair of CSXT's rail material will be accomplished by use of the right of way for access, along with existing public and private crossings, and no new access roads are contemplated. CSXT does not intend to disturb any of the underlying roadbeds and do not anticipate any dredging or use of fill in the removal of the track material. The crossties and/or other debris will be transported away from the rail line and will not be discarded along the right of way, nor be placed or left in streams or wetlands, or along the banks of such waterways. During track removal, appropriate measures will be implemented to prevent or control spills from fuels, lubricants or any other materials from entering any watercourses.

Based upon the above described actions, CSXT would appreciate your concurrence in its position that there would be no adverse impact to any federally-listed endangered or threatened species, critical habitats, wildlife sanctuaries or refuges, National or State parks, or forests.

As further information, CSXT will provide a preliminary environmental report in the coming weeks which will outline the scope of the proposed activity and include any comments received from your office. This environmental report can be sent electronically by email or through the United States Postal Service (USPS). Please email Jo_Burroughs@csx.com if you wish to receive the report electronically. If we do not receive notification, it will be mailed via USPS.

Enclosed is a distribution list of all parties that have been copied on the proposed action. If you have any questions, please feel free to call or email me.

Sincerely,

Jo Ann Burroughs
Enclosures (2)



United States Department of the Interior

FISH AND WILDLIFE SERVICE

New York Field Office

3817 Luker Road

Cortland, NY 13045

Phone: (607) 753-9334 Fax: (607) 753-9699

<http://www.fws.gov/northeast/nyfo>To: Jo Ann BurroughsDate: 07-30-2012USFWS File No: 120449Regarding your: ☒ Letter ☐ FAX ☐ EmailDated: July 5, 2012For project: CSX Transportation proposed abandonment, STB Docket No. AB-55 (Sub No. 716X)Located: between railroad milepost QDN 28.0 near North Avenue to milepost QDN 28.1In Town/County: City of Niagara Falls / Niagara County

Pursuant to the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), the U.S. Fish and Wildlife Service:

☐ Acknowledges receipt of your "no effect" and/or no impact determination. No further ESA coordination or consultation is required.

☒ Acknowledges receipt of your determination. Please provide a copy of your determination and supporting materials to any involved Federal agency for their final ESA determination.

☐ Is taking no action pursuant to ESA or any other legislation at this time but would like to be kept informed of project developments.

As a reminder, until the proposed project is complete, we recommend that you check our website (<http://www.fws.gov/northeast/nyfo/esa/section7.htm>) every 90 days from the date of this letter to ensure that listed species presence/absence information for the proposed project area is current. Should project plans change or if additional information on listed or proposed species or critical habitat becomes available, this determination may be reconsidered.

USFWS Contact(s): Sandie Doon 07/30/2012Supervisor: Patricia ColeDate: 7/31/2012



500 Water Street – J-315
Jacksonville, FL 32202
Phone: (904) 359-1247
FAX: (904) 359-1373
E-Mail: Jo_Burroughs@csx.com

Jo Ann Burroughs
Manager Network Services

June 22, 2012

New York Department of
Environmental Conservation
625 Broadway
Albany, NY 12233

Dear Sir/Madam:

Please be advised that CSX Transportation, Inc. (CSXT) is proposing to file with the Surface Transportation Board (STB) a Notice of Exemption seeking authority to abandon a portion of its rail line between railroad milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1 on CSXT's Northern Region, Albany Division, Niagara Subdivision, Niagara County, New York, as depicted on the attached map.

The above-referenced 0.1-mile line has not generated any originating, terminating or overhead freight traffic in over two (2) years. No new freight rail-oriented business is expected to develop, and the line is no longer required for operating purposes. CSXT currently maintains the line for Amtrak operations. The Canadian National Railway (CN) has filed with the Surface Transportation Board to abandon its line of road to our railroad milepost marker QDN 28.1 and plans to sell their interest in the track and land to Amtrak. CSXT will arrange for a purchase and sale agreement with Amtrak to include the track and land from QDN 28.0 to QDN 28.1 contingent on STB approval for abandonment. Amtrak will take over the maintenance, construction and dispatch from the west of QDN 28.0

This action requires Surface Transportation Board approval and Federal Regulations 49 C.F.R. 1105.7 (9) (i) and (iii) require that CSXT develop a response to the following statements.

(i) *"Based on consultation with State Water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies."*



500 Water Street – J-315
Jacksonville, FL 32202
Phone: (904) 359-1247
FAX: (904) 359-1373
E-Mail: Jo_Burroughs@csx.com

Jo Ann Burroughs
Manager Network Services

(iii) "State whether permits under Section 402 of the Clean Water Act 33 U.S.C. 1342 are required for the proposed action."

There are no refueling or maintenance areas within the project area. The removal or repair of CSXT's rail material will be accomplished by use of the right of way for access, along with existing public and private crossings, and no new access roads are contemplated. CSXT does not intend to disturb any of the underlying roadbeds and do not anticipate any dredging or use of fill in the removal or repair of the track material. The crossties and/or other debris will be transported away from the rail line and will not be discarded along the right of way, nor be placed or left in streams or wetlands, or along the banks of such waterways. During track removal or repair, appropriate measures will be implemented to prevent or control spills from fuels, lubricants or any other pollutant materials from entering any watercourses.

Based upon the above described actions, CSXT would appreciate receiving your concurrence with its position that the proposed project is consistent with applicable Federal, State and local water quality standards, and that no permits under Section 402 are required at this time.

As further information, CSXT will provide a preliminary environmental report in the coming weeks which will outline the scope of the proposed activity and include any comments received from your office. This environmental report can be sent electronically by email or through the United States Postal Service (USPS). Please email Jo_Burroughs@csx.com if you wish to receive the report electronically. If we do not receive notification, it will be mailed via USPS.

Enclosed is a distribution list of all parties that have been copied on the proposed action. If you have any questions, please feel free to call or email me.

Sincerely,

Jo Ann Burroughs

Enclosures (2)



How tomorrow moves

500 Water Street – J-316
Jacksonville, FL 32202
Phone: (904) 359-1247
FAX: (904) 359-1373
E-Mail: Jo_Burroughs@csx.com

Jo Ann Burroughs
Manager Network Services

June 22, 2012

U.S. Army Corps of Engineers
Jacob K. Javits Federal Building
26 Federal Plaza Room 2109
New York, NY 10278-0090

Dear Sir/Madam:

Please be advised that CSX Transportation, Inc. (CSXT) is proposing to file with the Surface Transportation Board (STB) a Notice of Exemption seeking authority to abandon a portion of its rail line between railroad milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1 on CSXT's Northern Region, Albany Division, Niagara Subdivision, Niagara County, New York, as depicted on the attached map.

The above-referenced 0.1-mile line has not generated any originating, terminating or overhead freight traffic in over two (2) years. No new freight rail-oriented business is expected to develop, and the line is no longer required for operating purposes. CSXT currently maintains the line for Amtrak operations. The Canadian National Railway (CN) has filed with the Surface Transportation Board to abandon its line of road to our railroad milepost marker QDN 28.1 and plans to sell their interest in the track and land to Amtrak. CSXT will arrange for a purchase and sale agreement with Amtrak to include the track and land from QDN 28.0 to QDN 28.1 contingent on STB approval for abandonment. Amtrak will take over the maintenance, construction and dispatch from the west of QDN 28.0

This action requires Surface Transportation Board approval and Federal Regulations 49 C.F.R. 1105.7(9) (ii) require that CSXT develop a response to the following statement:

"Based on consultation with the U. S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100 year flood plains will be affected. Describe the effects."



500 Water Street – J-315
Jacksonville, FL 32202
Phone: (904) 359-1247
FAX: (904) 359-1373
E-Mail: Jo_Burroughs@csx.com

Jo Ann Burroughs
Manager Network Services

It is CSXT's opinion that there will be no impact on designated wetlands or 100-year flood plains because our intent at this time is to only remove or repair CSXT's metal track material, crossties and perhaps the upper layer of ballast, and to preserve the existing routes of water flow and drainage. CSXT does not intend to disturb any of the underlying roadbeds or perform any activities that would cause sedimentation or erosion of the soil, and CSXT does not anticipate any dredging or use of fill in the removal or repair of the track material. The track removal or repair will be accomplished by use of the right of way for access, along with existing public and private crossings, and no new access roads are contemplated. The crossties and/or other debris will be transported away from the rail line and will not be discarded along the right of way, nor be placed or left in streams or wetlands, or along the banks of such waterways.

Based upon the above described actions, CSXT would appreciate your concurrence in its position that there would be no adverse impact on wetlands or 100-year flood plains, and that no permits under Section 404 will be required.

As further information, CSXT will provide a preliminary environmental report in the coming weeks which will outline the scope of the proposed activity and include any comments received from your office. This environmental report can be sent electronically by email or through the United States Postal Service (USPS). Please email Jo_Burroughs@csx.com if you wish to receive the report electronically. If we do not receive notification, it will be mailed via USPS.

Enclosed is a distribution list of all parties that have been copied on the proposed action. If you have any questions, please feel free to call or email me.

Sincerely,

Jo Ann Burroughs
Enclosures (2)



500 Water Street - J-315
Jacksonville, FL 32202
Phone: (904) 359-1247
FAX: (904) 359-1373
E-Mail: Jo_Burroughs@csx.com

Jo Ann Burroughs
Manager Network Services

CSXT Environmental Report Response Form

RE: STB Docket Number AB 55 (Sub No. 716X)

Please be advised that on or about August 1, 2012, CSX Transportation, Inc. (CSXT) is proposing to file with the Surface Transportation Board (STB) a Notice of Exemption seeking authority to abandon a portion of its rail line between railroad milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1 on CSXT's Northern Region, Albany Division, Niagara Subdivision, Niagara County, Niagara Falls, New York.

Agency response (check one):

☒ No Environmental Impact - No impact to wetlands/waters of the U.S.

☐ Environmental Impact as follows (or attached):

Date:

7/24/2012

Signature:

[Signature]

Name:

Steven V. Metivier

Title:

Chief, NY-AES US Army Corps of Engineers
Buffalo District



Attachment 12

500 Water Street – J-315
Jacksonville, FL 32202
Phone: (904) 359-1247
FAX: (904) 359-1373
E-Mail: Jo_Burroughs@csx.com

Jo Ann Burroughs
Manager Network Services

June 22, 2012

EPA Region 2
Jacob K. Javits Federal Building
290 Broadway
New York, NY 10007-1866

Dear Sir/Madam:

Please be advised that CSX Transportation, Inc. (CSXT) is proposing to file with the Surface Transportation Board (STB) a Notice of Exemption seeking authority to abandon a portion of its rail line between railroad milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1 on CSXT's Northern Region, Albany Division, Niagara Subdivision, Niagara County, New York, as depicted on the attached map.

The above-referenced 0.1-mile line has not generated any originating, terminating or overhead freight traffic in over two (2) years. No new freight rail-oriented business is expected to develop, and the line is no longer required for operating purposes. CSXT currently maintains the line for Amtrak operations. The Canadian National Railway (CN) has filed with the Surface Transportation Board to abandon its line of road to our railroad milepost marker QDN 28.1 and plans to sell their interest in the track and land to Amtrak. CSXT will arrange for a purchase and sale agreement with Amtrak to include the track and land from QDN 28.0 to QDN 28.1 contingent on STB approval for abandonment. Amtrak will take over the maintenance, construction and dispatch from the west of QDN 28.0

This action requires Surface Transportation Board approval and Federal Regulations 49 C.F.R. 1105.7 (9) (i) and (iii) require that CSXT develop a response to the following statements:

(i) *"Based on consultation with State Water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies."*

(iii) *"State whether permits under Section 402 of the Clean Water Act 33 U.S.C. 1342 are required for the proposed action."*



500 Water Street – J-315
Jacksonville, FL 32202
Phone: (904) 359-1247
FAX: (904) 359-1373
E-Mail: Jo_Burroughs@csx.com

Jo Ann Burroughs
Manager Network Services

There are no refueling or maintenance areas within the project area. The removal or repair of CSXT's rail material will be accomplished by use of the right of way for access, along with existing public and private crossings, and no new access roads are contemplated. CSXT does not intend to disturb any of the underlying roadbeds and do not anticipate any dredging or use of fill in the removal or repair of the track material. The crossties and/or other debris will be transported away from the rail line and will not be discarded along the right of way, nor be placed or left in streams or wetlands, or along the banks of such waterways. During track removal or repair, appropriate measures will be implemented to prevent or control spills from fuels, lubricants or any other pollutant materials from entering any watercourses.

Based upon the above described actions, CSXT would appreciate receiving your concurrence with its position that the proposed project is consistent with applicable Federal, State and local water quality standards, and that no permits under Section 402 are required at this time.

As further information, CSXT will provide a preliminary environmental report in the coming weeks which will outline the scope of the proposed activity and include any comments received from your office. This environmental report can be sent electronically by email or through the United States Postal Service (USPS). Please email Jo_Burroughs@csx.com if you wish to receive the report electronically. If we do not receive notification, it will be mailed via USPS.

Enclosed is a distribution list of all parties that have been copied on the proposed action. If you have any questions, please feel free to call or email me.

Sincerely,

Jo Ann Burroughs

Enclosures (2)

Attachment 13
National Geodetic Survey Response

Burroughs, Joann

From: Simon Monroe <simon.monroe@noaa.gov>
Sent: Tuesday, June 26, 2012 4:20 PM
To: Burroughs, Joann
Cc: Surface Transportation Board; Gilbert Mitchell; Simon Monroe
Subject: NGS Response, STB Docket AB-55 (SUB NO. 716X)

> Thank you for sharing your railroad abandonment environmental report
> for
>
> .NIAGARA FALLS, Niagara County, NEW YORK.
>
>
>
> Approximately 00 geodetic survey marks may be located in the area
> described.
> If marks will be disturbed by the abandonment, [THE RAILROAD] shall
> consult with the National Geodetic Survey (NGS) at least 90 days prior
> to beginning salvage activities that will disturb, or destroy any
> geodetic station marks described on the attached file.
> Additional advice is provided at
> <http://geodesy.noaa.gov/marks/railroads/>
>

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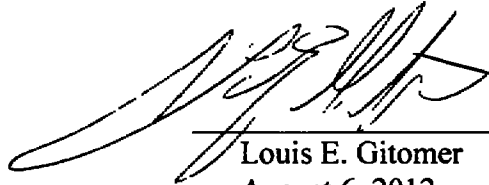
No Stations Found.

EXHIBIT E– HISTORIC REPORT

HISTORIC REPORT CERTIFICATE OF SERVICE

Pursuant to the requirements of 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Historic Report in Docket No. AB-55 (Sub-No. 716X) was mailed via first class mail on July 12, 2012, to the following parties:

NY State Office of Parks, Recreation & Historic Preservation
Peebles Island Resource Center
P.O. Box 189
Waterford, NY 12188-0189



Louis E. Gitomer
August 6, 2012

HISTORIC REPORT

**CSX TRANSPORTATION, INC.
Niagara Falls, Niagara County, New York
DOCKET AB-55 (SUB-NO. 716X)**

1105.7(e)(1)

PROPOSED ACTION AND ALTERNATIVES. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable detailed map and drawings clearly delineating the project.

CSXT proposes to abandon approximately 0.1 mile of its rail line between from Railroad Milepost QDN 28.0 (or valuation station 389.86) to Railroad Milepost QDN 28.1 (or valuation station 390.42) approximately 562 feet in Niagara Falls, Niagara County, New York.

The above-referenced 0.1-mile line has not generated any originating, terminating or overhead freight traffic in over two (2) years. No new freight rail-oriented business is expected to develop, and the line is no longer required for operating purposes. CSXT currently maintains the line for Amtrak operations. The Canadian National Railway (CN) has filed with the Surface Transportation Board to abandon its line of road to our Milepost marker QDN 28.1 and plans to sell their interest in the track and land to Amtrak. CSXT will arrange for a purchase and sale agreement to Amtrak to include the track and land from QDN 28.0 to QDN 28.1 contingent on STB approval for abandonment. Amtrak will take over the maintenance, construction and dispatch for this line of road west of QDN 28.0.

Abandonment of this line may result in the removal of the rail, crossties, and possibly the upper layer of ballast. CSXT does not intend to disturb any sub grade or sub grade structures. Finally, the operations and maintenance performed by CSXT on this line will cease.

The only alternative would be not to abandon and to pass the opportunity costs of retaining the line to all other CSXT customers. This would not be a prudent utilization of carrier resources.

1105.8(d)

- (1) **A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action.**

Attached is a copy of the topographic map prepared by CSX Properties Group (Attachment 1) and a copy of the abandonment STB filing map. The line to be abandoned has been identified by a heavy red line with black dashes (Attachment 2).

There are no CSXT-owned structures that are 50 years old or older that may be eligible for listing in the National Register that are part of the proposed action.

- (2) **A written description of the right of way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristic of the surrounding area:**

The right of way width along this right of way is approximately 25 feet from the centerline of track. The line traverses the city of Niagara Falls, New York in a westerly direction to the Canadian Border.

- (3) **Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area:**

Not applicable

- (4) **The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known:**

Bridge Number 75.75-304843 is located in the town of Niagara Falls, NY. This was a 76-foot deck beam steel ballasted deck bridge that traverses Main Street (also known as S-104) and was built in 1925.

The structure has been completely modified as necessary throughout its existence to maintain safe railroad operation and perform routine maintenance. The 1925 version of the bridge no longer exists. The

picture shows a new concrete and steel bridge completed in 2012 (Attachment 3).

(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action:

This line was originally a part of the Erie Railroad, which merged with the Delaware, Lackawanna and Western Railroad in 1960 to form the Erie-Lackawanna Railroad. In 1968 they became the Erie Lackawanna Railway (EL). EL filed for bankruptcy in 1972. In 1976, most of its assets were purchased by the federal government and merged with other companies' railroad assets to form Conrail. This line was acquired by CSXT when the property conveyed from Conrail to CSXT 6/1/1999.

On November 1, 1980, Seaboard Coast Line Industries Inc. and Chessie System Inc. merged and became CSX Corporation. On April 30, 1987, the Baltimore & Ohio Railroad Company was merged into the Chesapeake and Ohio Railway Company. The Chesapeake and Ohio Railway Company was merged into CSX Transportation on September 2, 1987.

Upon receiving abandonment authority, Applicant's operations and maintenance over this line will cease.

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic:

Not applicable. Current bridge designs are available upon request.

(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities):

A review of our records indicates there are zero (0) CSXT-owned structures over 50 years old on this line segment that may be eligible for listing in the National Register.

We do not know of any significance or uniqueness to this structure

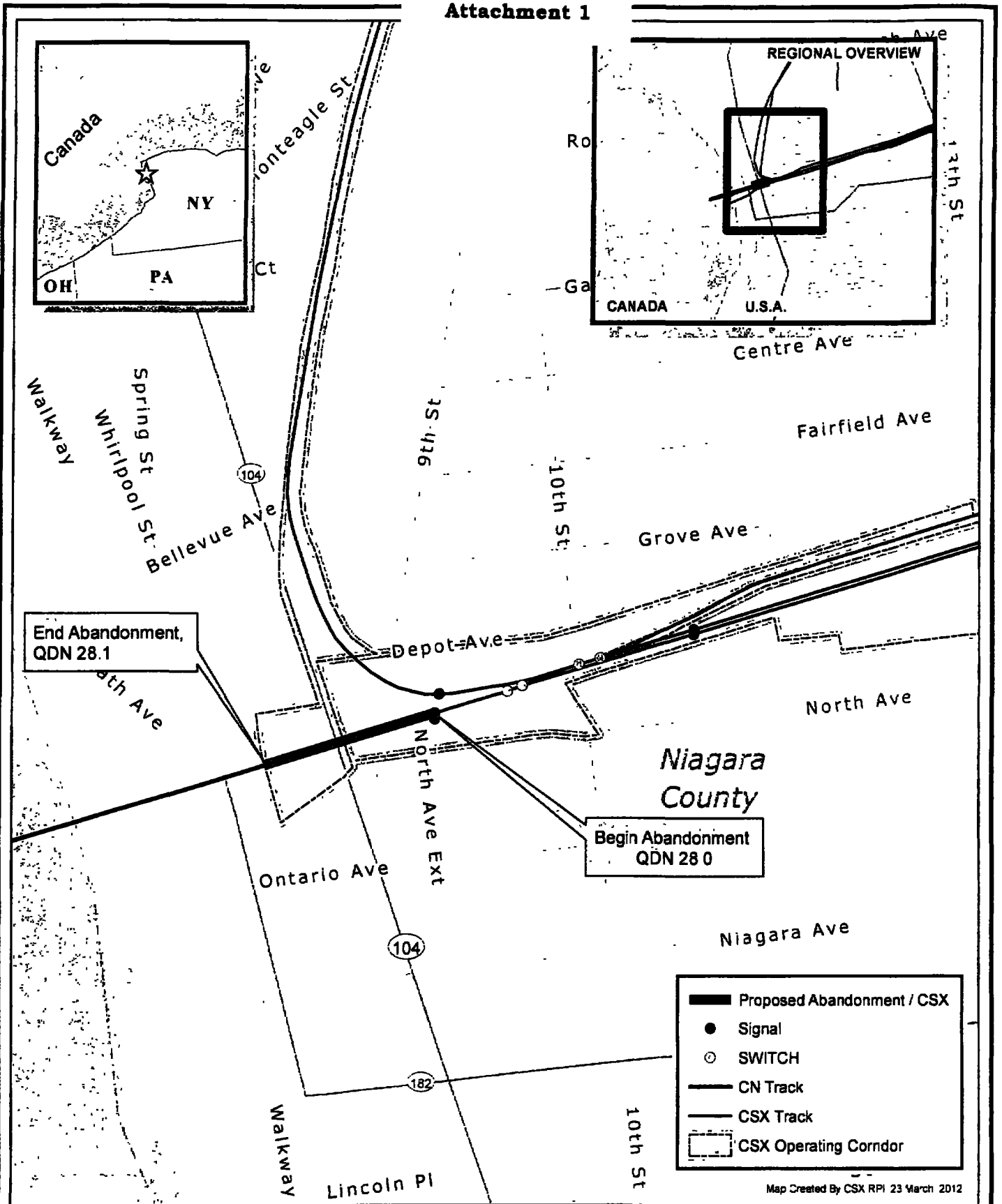
that would warrant your consideration, since to our knowledge, it is not associated with any event that has made a contribution to the broad patterns of history; or were not associated with lives of persons significant to our past; do not embody the distinctive characteristics of a type, period or method of construction; and do not represent a significant and distinguishable entity whose components may lack individual distinction and have not or may not be likely to yield information important in prehistory or history.

We do not know of any archeological resources or any other previously unknown historic properties in the project area.

- (8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or man-made) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.**

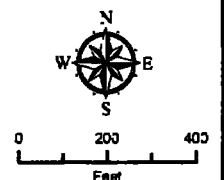
The line was disturbed during construction by cuts and fill and any archeological resources that may have been located in the proposed project area would have been affected at that time versus during the proposed salvage operations associated with rail removal. Our records do not indicate that any swampy conditions exist, or that any hazardous material spills have occurred within the project area.

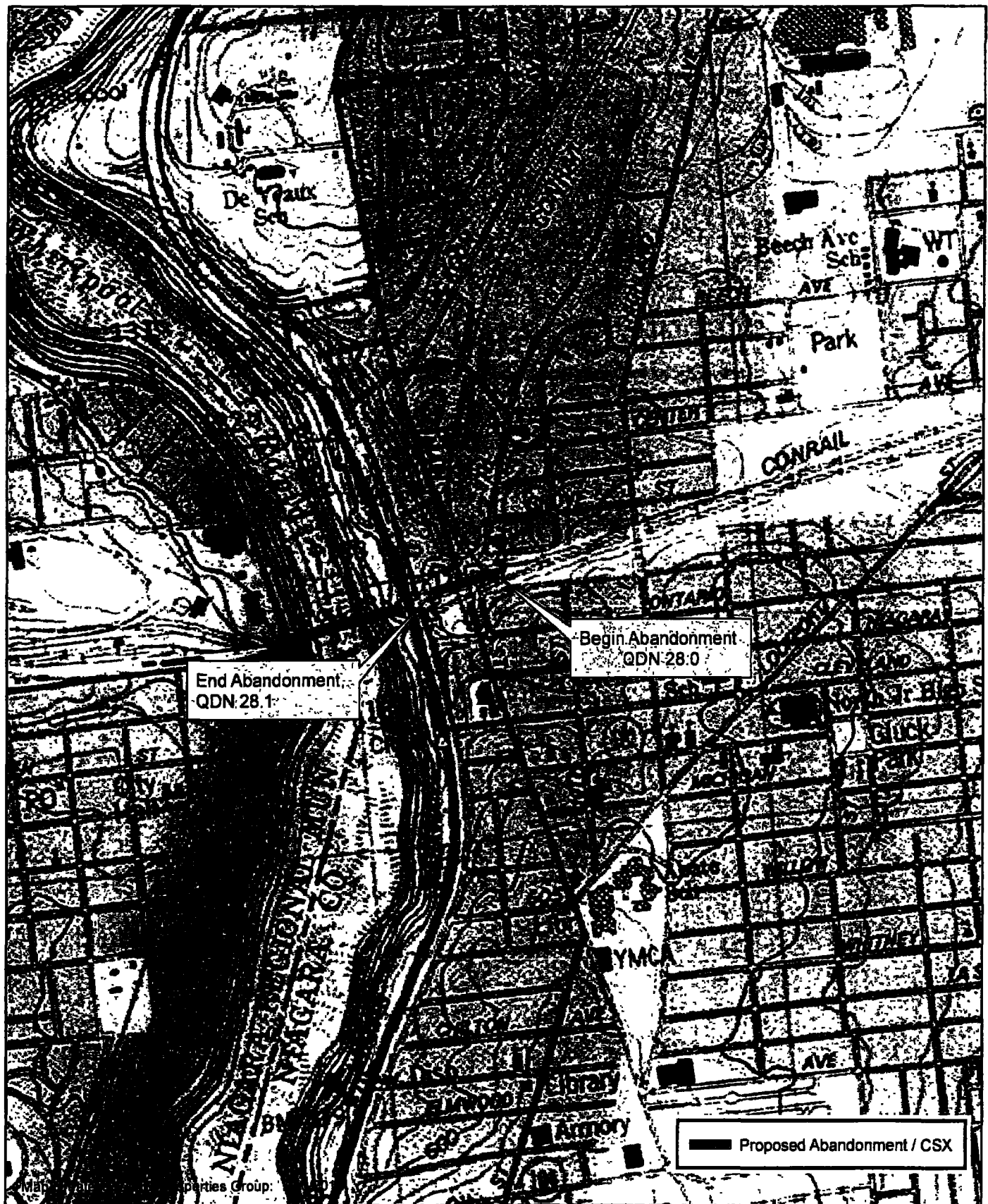
Attachment 1



CSX Transportation, Inc. Proposed Abandonment Niagara International Station

Milepost QDN 28.0 to QDN 28.1
Approx. Station 389.8611 to Station 390.4236
Total Distance of approx. 562 Feet
Niagara Falls, Niagara County, NY
STB Docket Number AB 55 (Sub-No. 716X)





**CSX Transportation, Inc. Proposed Abandonment
Niagara International Station**

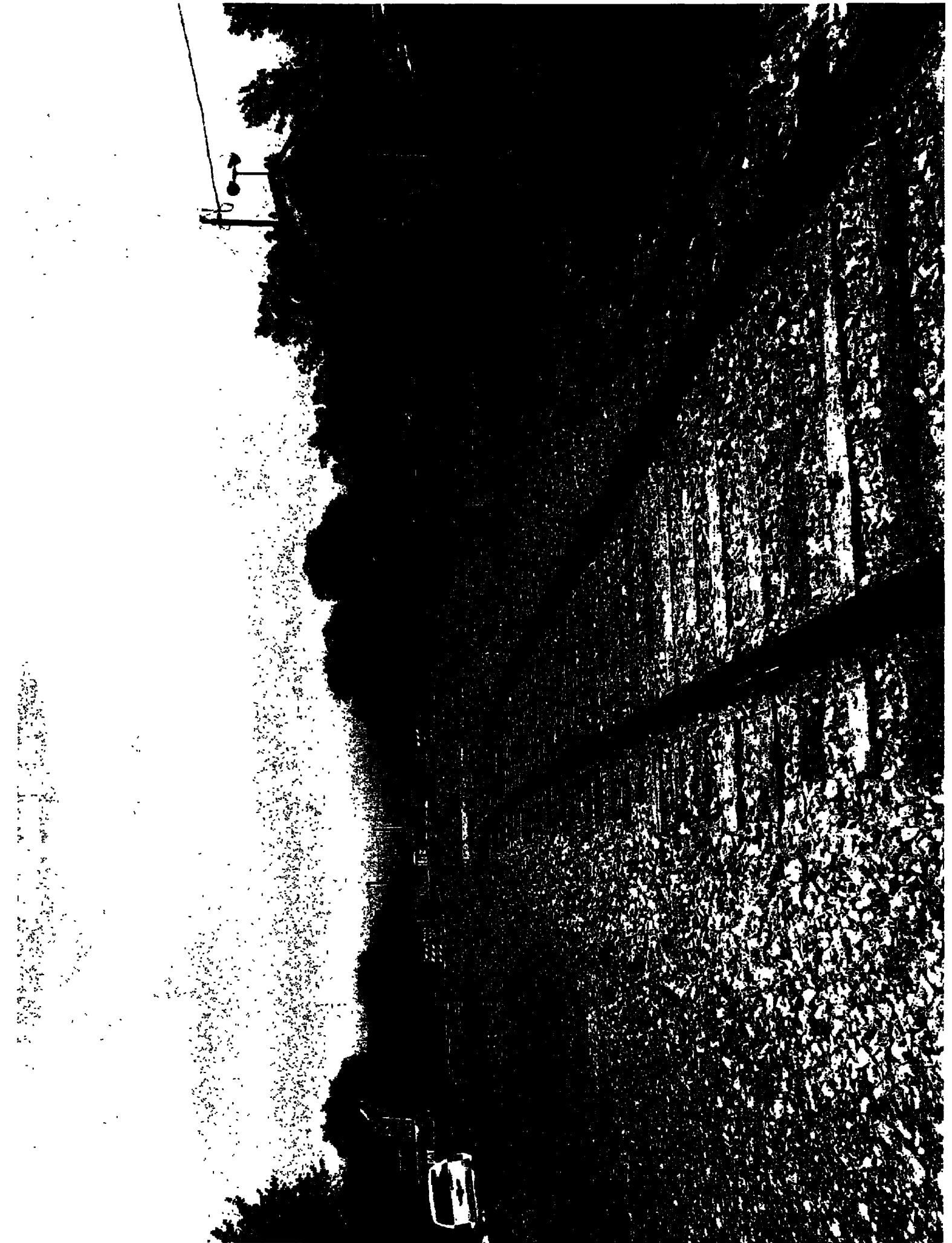
Milepost QDN 28.0 to QDN 28.1
Approx. Station 389.8611 to Station 390.4236
Total Distance of approx. 562 Feet
Niagara Falls, Niagara County, NY
STB Docket Number AD 95 (Sub-No. 716X)



C 200 400
Feet

Attachment 3







**Attachment 4
New York SHPO Response**

500 Water Street – J-315
Jacksonville, FL 32202
Phone: (904) 359-1247
FAX: (904) 359-1373
E-Mail: Jo_Burroughs@csx.com

**Jo Ann Burroughs
Manager Network Services**

July 12, 2012

New York State Historic Preservation Office
NY State Office of Parks, Recreation &
Historic Preservation
Peebles Island Resource Center
P.O. Box 189
Waterford, NY 12188-0189

**RE: CSX Transportation, Inc., Proposed Line Abandonment, Niagara
Falls, Niagara County, New York, STB Docket No. AB-55 (Sub-No.
716X).**

Dear Sir/Madam:

Please be advised that on or about August 1, 2012, CSX Transportation, Inc. (CSXT) is proposing to file with the Surface Transportation Board (STB) a Notice of Exemption seeking authority to abandon a portion of its rail line between railroad milepost QDN 28.0 near North Avenue to the end of track at railroad milepost QDN 28.1 on CSXT's Northern Region, Albany Division, Niagara Subdivision, Niagara County, Niagara Falls, New York.

The above-referenced 0.1-mile line has not generated any originating, terminating or overhead freight traffic in over two (2) years. No new freight rail-oriented business is expected to develop, and the line is no longer required for operating purposes. CSXT currently maintains the line for Amtrak operations. The Canadian National Railway (CN) has filed with the Surface Transportation Board to abandon its line of road to our railroad milepost marker QDN 28.1 and plans to sell their interest in the track and land to Amtrak. CSXT will arrange for a purchase and sale agreement with Amtrak to include the track



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Jo Ann Burroughs
Manager Network Services

and land from QDN 28.0 to QDN 28.1 contingent on STB approval for abandonment. Amtrak will take over the maintenance, construction and dispatch from the west of QDN 28.0

In connection with rail lines that are to become the subject of applications for authority to abandon, Federal Regulations at 49 CFR 1105.8(d), require that a Historic Report be submitted to the State Historic Preservation Officer prior to filing with the Surface Transportation Board. In accordance with those Regulations, I am attaching a Historic Report covering the above-proposed abandonment.

Since there are no structures over 50 years old, I would appreciate receiving a letter from your office confirming that this project will have no impact upon cultural resources.

If you have questions, please feel free to call me.

Sincerely,

Jo Ann Burroughs

Attachment

cc: Surface Transportation Board – OEA
395 East Street, SW
Washington D.C. 20423



New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

Andrew M. Cuomo
Governor

Rose Harvey
Commissioner

July 19, 2012

Jo Ann Burroughs
CSX
500 Water St
Jacksonville, Florida 32202

Re: STB
Proposed RR Line Abandonment
Between RR Milepost QDN 28.0 near North
Ave to Milepost QDN 28.1
NIAGARA FALLS, Niagara County
12PR02988

Dear Ms. Burroughs:

Thank you for requesting the comments of the State Historic Preservation Office (SHPO). We have reviewed the project in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the National Environmental Policy Act and/or the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8).

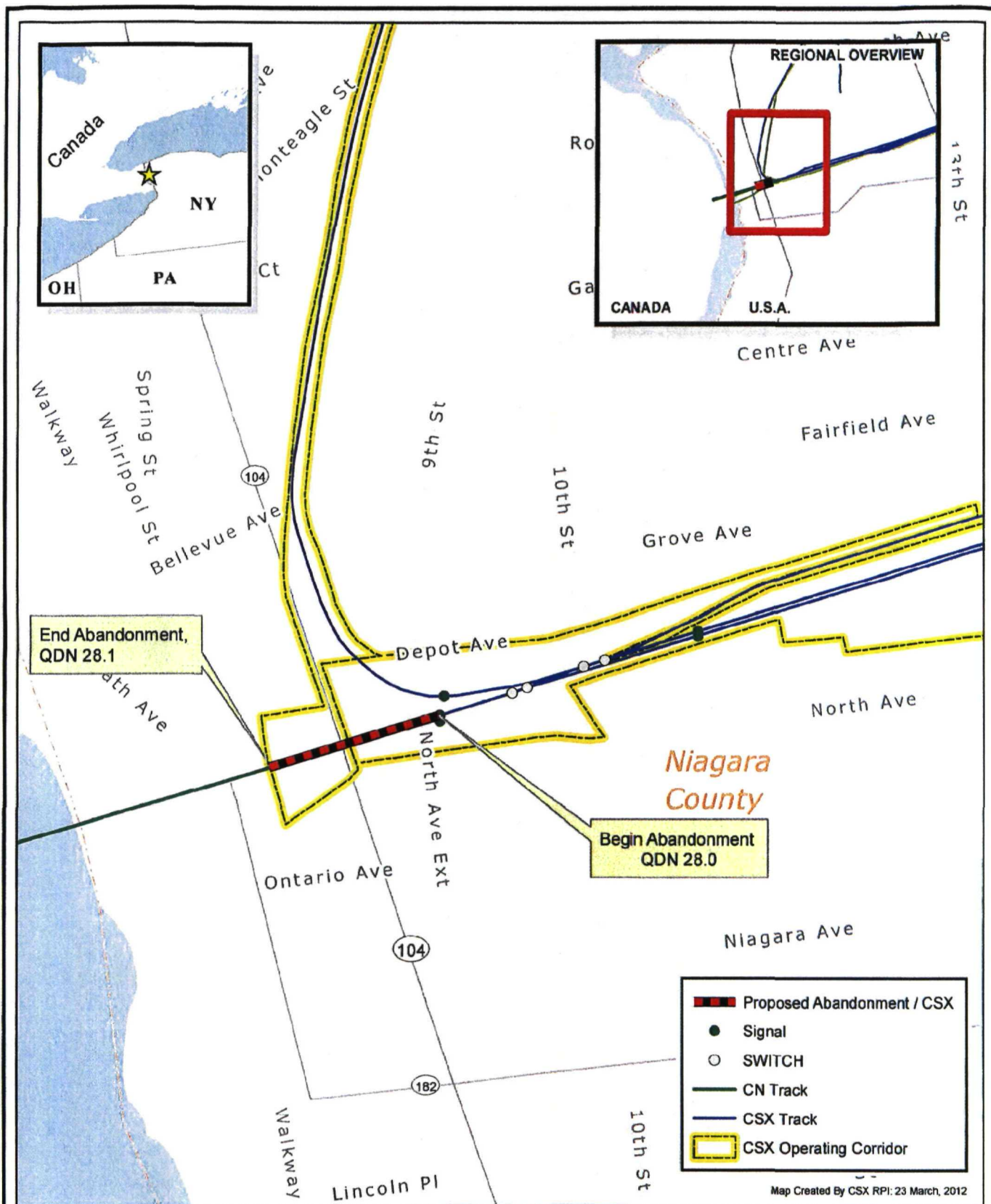
Based upon this review, it is the SHPO's opinion that your project will have No Effect upon cultural resources in or eligible for inclusion in the National Registers of Historic Places.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

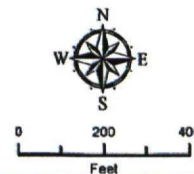
Ruth L. Pierpont
Deputy Commissioner for Historic Preservation

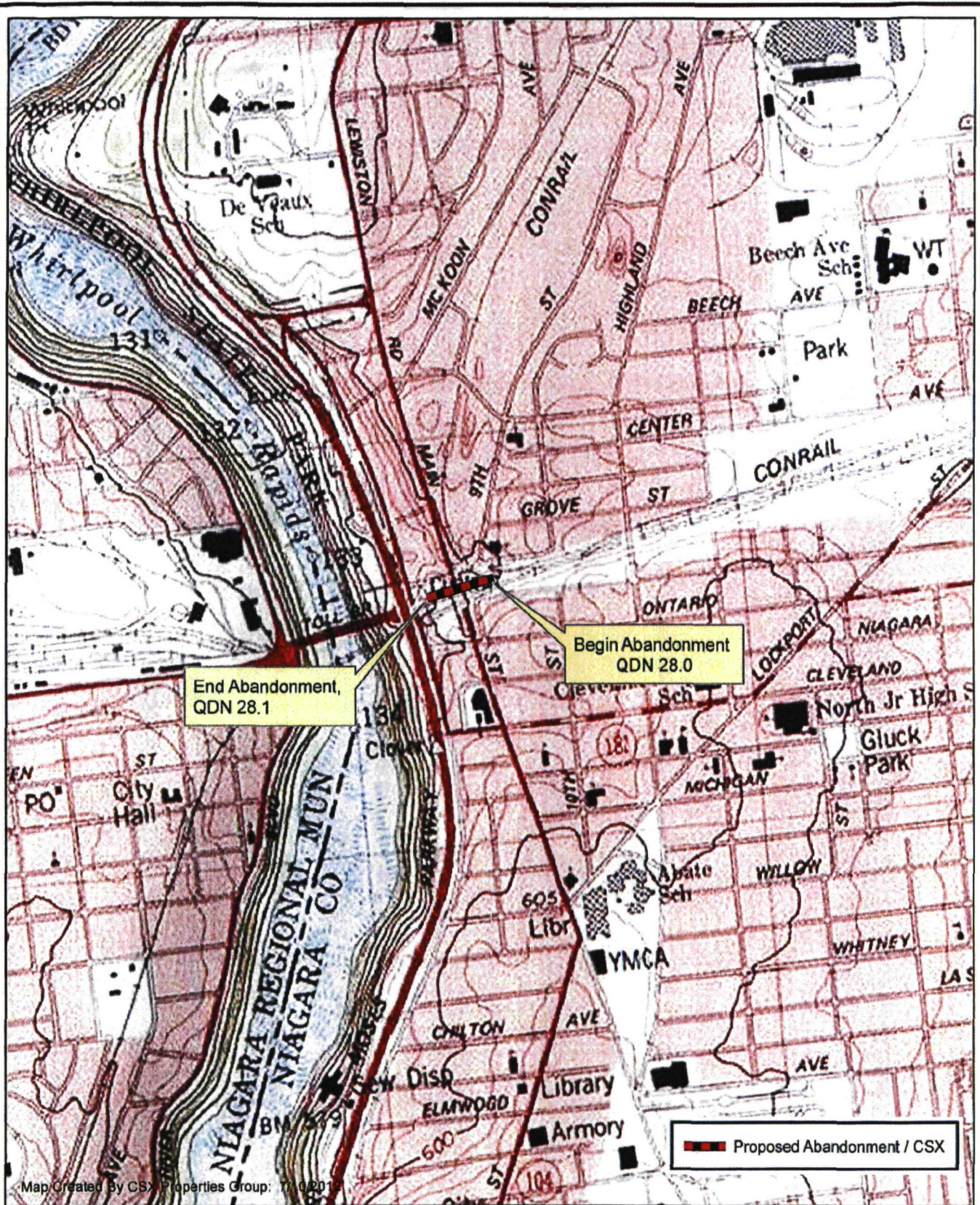
EXHIBIT F—COLOR EXHIBITS



CSX Transportation, Inc. Proposed Abandonment Niagara International Station

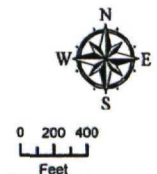
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CSX Transportation, Inc. Proposed Abandonment Niagara International Station

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Total Distance of approx. 562 Feet
Niagara Falls, Niagara County, NY
STB Docket Number AB 55 (Sub-No. 716X)



Attachment 3



